

ORDINANCE NO. 5425

AN ORDINANCE TO ESTABLISH CHAPTER 5.114 OF
THE CODE OF THE CITY OF ELIZABETH ENTITLED
"USED MOTOR VEHICLE DEALERSHIPS,"
SPECIFICALLY TO REQUIRE USED CAR DEALERS TO
OBTAIN LICENSES.

WHEREAS, used car dealerships can provide residents of the City of Elizabeth with affordable transportation and enhance the local economy; and

WHEREAS, if unregulated, however, used car dealerships can be a liability to consumers and cause disruption in residential neighborhoods; and

WHEREAS, the City Council of the City of Elizabeth finds it necessary and proper to require the investigation and licensing of used motor vehicle dealerships in the City to promote the health, safety, and general welfare of the City's residents and business; and

WHEREAS, the City Council finds that there is a need to regulate the practice of selling or leasing used motor vehicles to protect the legitimate business interest of those engaged in the practice; and now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH THAT:

SECTION 1. The Code of the City of Elizabeth Section 5.114.010 is hereby established and shall read:

Definitions. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

"Chief License Inspector" shall mean the head of the Bureau of Central License.

"Licensee" shall refer to a Used Motor Vehicle Dealer or any individual employee who engages in a regulated activity on behalf of a Dealer.

"Regulated Activity" shall mean the practice of buying, selling, or dealing used motor vehicles.

"Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

"Used Car Lot" shall mean a space used, occupied, and zoned for the business of selling, buying, and dealing in used motor vehicles.

"Used Motor Vehicle" shall mean a motor vehicle which has been transferred from the person or entity who first acquired it from the manufacturer or dealer and leases it to another person or entity. For purposes of this Chapter, "used motor vehicles" shall exclude commercial vehicles, trucks and/or parts of trucks.

"Used Motor Vehicle Dealer" shall mean a person engaged in the business of selling, buying, or dealing in used motor vehicles and who has an established place of business in the City of Elizabeth.

SECTION 2. The Code of the City of Elizabeth Section 5.114.020 is hereby established and shall read:

License Required. No person shall engage in the business of selling or leasing secondhand or used motor vehicles in the City of Elizabeth without first obtaining a license for the regulated activity as provided in this Chapter. It shall be prohibited for a used motor vehicle dealer to engage in the business of selling or leasing commercial vehicles, trucks and/or parts of trucks.

SECTION 3. The Code of the City of Elizabeth Section 5.114.030 is hereby established and shall read:

Motor Vehicle Commission License Required. No person shall engage in the regulated activity within the City of Elizabeth without first obtaining a Motor Vehicle Commission License from the State of New Jersey.

SECTION 4. The Code of the City of Elizabeth Section 5.114.040 is hereby established and shall read:

Zoning and Planning Approval. No person shall engage in the regulated activity within the City of Elizabeth without first having prior approval from the Bureau of Planning and Zoning. New used motor vehicle dealers must apply to either the Zoning Board of Adjustment or the Planning Board for approval.

SECTION 5. The Code of the City of Elizabeth Section 5.114.050 is hereby established and shall read:

Used Motor Vehicle Dealer License Application. Applications for used motor vehicle sales licenses shall be made upon forms provided by the Chief License Inspector, shall be signed and verified under oath by the applicant, if an individual, or by a duly authorized agent if a partnership or corporation and shall submit the following:

1. The name and address of the applicant.
2. If a partnership, the name, residence, and business address of each partner.
3. If a corporation, a copy of formation papers or resolutions.
4. If applicable, a copy of the alternate/fictitious name filing certificate.
5. Street address and description of premises where the regulated activity will be conducted.
6. A list of all individuals that will be employed or otherwise contracted to work or engage in the regulated activity at the premises.
7. Proof of approval from the Bureau of Planning and Zoning.

SECTION 6. The Code of the City of Elizabeth Section 5.114.060 is hereby established and shall read:

Approval or Denial of Used Motor Vehicle Dealer License. Each completed application for a license or renewal shall be submitted to the Chief License Inspector, who shall approve or deny the application pursuant to the procedures outlined in the subsections below.

- A. Investigation of Initial License Applications. Upon receipt of a completed application, the Chief License Inspector shall refer such application to the Chief of Police, who shall have the named individuals in the application fingerprinted and investigated. Upon the completion of the full state background investigation(s), the Chief of Police shall refer the application back to the Chief License Inspector together with his or her

recommendation. Where the Chief of Police recommends the denial of an application, he or she shall set forth the specific reasons for denial in writing.

B. Disqualification of Applicant. No license shall be issued or held by any person, firm or corporation where the applicant or his or her employees/agents have been convicted of any crime that relates adversely to the operation of a Used Motor Vehicle Dealership. Any determination made by the Chief License Inspector under this section shall be made in accordance with N.J.S.A. 2A:168A-2.

C. Issuance of License. If, after an investigation by the Central License Bureau and Chief of Police have been completed, the Chief License Inspector is reasonably satisfied that the applicant has a good reputation and that the statements set forth in the application are correct, and if the proper fee has been paid, the Chief Licensing Inspector shall then issue to the applicant a license.

SECTION 7. The Code of the City of Elizabeth Section 5.114.070 is hereby established and shall read:

License Fee. The annual license fee for the license aforesaid is:

- A. For each used car lot having twenty (20) spaces or less, \$500.00 shall be paid for the annual license for the premise where the regulated activity is to be conducted.
- B. For each used car lot having twenty-one (21) spaces and more, \$750.00 shall be paid for the annual license for the premise where the regulated activity is to be conducted.

The license year shall be from May 1 to April 30 of the following year.

SECTION 8. The Code of the City of Elizabeth Section 5.114.080 is hereby established and shall read:

License Renewal. Prior to the expiration of a license, a licensee may apply for a license renewal by providing the following:

1. A copy of a valid license issued to the applicant.
2. An updated list of all individuals that will be employed or otherwise contracted to work or engage in the regulated activity of the premises.
3. The appropriate annual license fee pursuant to the section 5.114.060 above.

SECTION 9. The Code of the City of Elizabeth Section 5.114.090 is hereby established and shall read:

Transfer of License Prohibited. Any license issued under this chapter shall not be transferable from person to person or from location to location.

SECTION 10. The Code of the City of Elizabeth Section 5.114.100 is hereby established and shall read:

Hours of Operation. No used car lot shall be permitted to be open between the hours of 10:00 p.m. and 8:00 a.m. Monday through Friday. No used car lot is permitted to be open between the hours 10:00 p.m. and 6:00 a.m. Saturday and Sunday.

SECTION 11. The Code of the City of Elizabeth Section 5.114.110 is hereby established and shall read:

Inspection. A licensee shall allow access to the premises at all reasonable times with or without advanced notice, to officers or agents of the Bureau of Central License, Police Department, or any official charged with enforcement within municipality of any building, housing, health, or safety code or regulation applicable to the premises.

SECTION 12. The Code of the City of Elizabeth Section 5.114.120 is hereby established and shall read:

Street and Sidewalk Parking Prohibited.

A. No licensee or agent/employee of the licensee shall park, store, or display motor vehicles or other articles or permit motor vehicles or other articles to be parked, stored, or displayed upon public sidewalks or walkways adjoining, abutting, or surrounding the used car lot.

B. No licensee or agent/employee of the licensee shall park, store, or display motor vehicles or other articles or permit motor vehicles or other articles to be parked, stored or displayed on any public streets adjacent or surrounding the used car lot.

SECTION 13. The Code of the City of Elizabeth Section 5.114.130 is hereby established and shall read:

License Suspension, Revocation, and Hearing. Any license issued hereunder may be suspended or revoked by the Chief License Inspector for any violation of this chapter, in addition to any other penalty imposed for any violation, upon written notice to the licensee.

A. Suspension. A licensee with a suspended used motor vehicle dealership license must immediately cease engagement of the regulated activity until reinstatement. Suspended licenses may be reinstated only when: (1) the grounds leading to the suspension have, in the determination of the Chief License Inspector been cured, corrected, or appropriately rectified; or (2) reinstatement is deemed appropriate pursuant to a requested hearing pursuant to subsection C below.

B. Revocation. Any license may be revoked by the Chief License Inspector for any violation of this Chapter, including, but not limited to, the following reasons:

1. The licensee has knowingly made any false or materially incorrect statement on the application.
2. The licensee knowingly violates or knowingly permits a violation of any provision of this Chapter.
3. The licensee knowingly violates or knowingly permits a violation of any provision of penal law or ordinance regarding theft, larceny, or conversion of a motor vehicle.

C. Notice of Suspension or Revocation. All suspensions or revocations of licenses shall be made effective by notice in writing of such suspension or revocation, designating the effective date thereon and, in case of

suspension, the term of such suspension, which notice may be served upon the licensee personally or by mailing it by regular and certified mail addressed to him or her at the licensed premises. Such suspension or revocation shall apply to the licensee and to the licensed premises. In the event that the licensee does not request a hearing, the license shall be automatically revoked upon the expiration of ten (10) business days after the notice of suspension has been given to the licensee.

D. Hearing. Upon receipt of the notice of suspension or revocation, the licensee may, within two (2) business days, file with the Chief License Inspector a written request for a hearing. The hearing shall be within ten (10) days of the request, at which time the licensee shall have the opportunity to be heard. At the conclusion of the hearing, the Chief License Inspector or his or her designee shall either revoke or reinstate the license.

SECTION 14. The Code of the City of Elizabeth Section 5.114.140 is hereby established and shall read:

Violations penalties. Any person who shall violate any provision of this chapter or any provision of any rule, or regulation or order promulgated by the Chief License Inspector pursuant to the authority granted by this chapter shall, upon conviction, in the Elizabeth Municipal Court or other court of competent jurisdiction be punished by a fine of not less than seven hundred fifty dollars (\$750.00) and not more than two thousand dollars (\$2,000.00) or community service for a period of not more than ninety (90) days or imprisonment for a term not exceeding ninety (90) days, and each day's failure to comply with any provision, rule, or order shall constitute a separate and distinct offense.

SECTION 15. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 16. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 17. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

PASSED:

 9/20/21

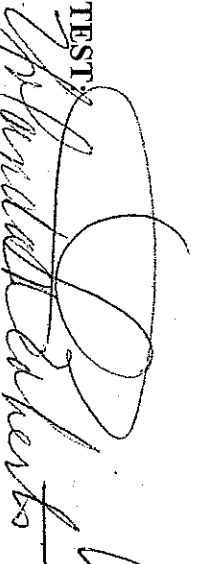

PATRICIA PERKINS-AUGUSTE
PRESIDENT OF CITY COUNCIL

APPROVED:

 10/1/21


J. CHRISTIAN BOLLWAGE
MAYOR

ATTEST



YOLANDA M. ROBERTS, R.M.C.
MUNICIPAL CLERK