

4501:1-3-08

Place of business required for used motor vehicle dealers.

(A) A used motor vehicle dealer shall have an established place of business that meets all of the following requirements:

- (1) Has a display lot of no less than three thousand five hundred square feet, not including driveways or office, with adequate ground cover of a hard surface that is free from the collection of dust, mud, water, or other unsightly conditions;
- (2) Except as set forth in paragraphs (B) and (D) of this rule, is separated with a barrier, as defined in this rule, from any residence and from any other business or service facility that is not primarily related to assisting or furthering the selling, displaying, offering for sale, or dealing in motor vehicles;

A barrier is a permanent fixture or feature of the property that distinguishes the display lot from residences or other businesses, comprised of metal, brick, stone, concrete, wood, heavy support cable, landscaping, curbing, or other comparable feature that creates a distinct space for the display lot. It shall clearly delineate a separation between a residence or an unrelated business and the beginning of the dealership's established place of business. Such separation shall be properly maintained during the entire period for which a used motor vehicle dealer's license is held.

- (3) Includes a permanent usable structure on the display lot that is identifiable as a motor vehicle dealership to the public that includes an easily accessible office of at least a contiguous one hundred eighty square feet with walls of a hard surface and shall not be used as a storage or other utility area. The office shall include, at minimum, a desk, three chairs, and a filing cabinet, or similar furnishings to create an environment conducive to transacting business, consummating sales, and facilitating the storage of records, all of which shall be kept in a neat and orderly fashion at all times. The office shall include adequate lighting, electrical service, heating and ventilation that is secure and safe for a retail office environment. The entire premises, including any plumbing fixtures, shall not be in violation of any applicable building and zoning requirements. The dealer shall provide evidence to show building and zoning requirements have been met upon request of the registrar or the registrar's designee. Upon request of the dealer, the registrar of motor vehicles shall consider, and may approve, reasonable variances to these requirements except for variances to the building and zoning requirements;
- (4) Has a business telephone in service at all times that shall be answered and identified exclusively for the dealership's business. The business telephone number shall be legible and posted in a conspicuous place in public view. A

motor vehicle dealer shall notify the registrar in writing within fifteen days of any change in the business telephone number;

- (5) Is staffed during posted business hours by a sole proprietor, officer of a corporation, trustee of a business trust, or in the case of a partnership or limited liability company, partner or member, or any such entity as defined in division (A) of section 4517.01 of the Revised Code, or a licensed motor vehicle salesperson under sections 4517.09, 4517.14, and 4517.20 of the Revised Code.
- (B) ~~Ninety days after~~ After the effective date of this rule, all licensed used motor vehicle dealers are to be open to the public no less than ~~twenty~~-five hours a week, with ~~at least ten of~~ those hours being between ~~nine~~ eight a.m. to five p.m. Monday through Friday. The business hours shall be legible and posted in a conspicuous place near the entrance of the office. A motor vehicle dealer shall notify the registrar in writing within fifteen days of any change in the posted business hours;
- (C) A physical barrier between the dealership and service facility is not required at an established place of business that includes a service facility that is used to perform service on motor vehicles, if the established place of business meets the following requirements:
 - (1) The service facility is owned and operated by each person listed on the dealer license as a sole proprietor, officer(s) of a corporation, trustee(s) of a business trust, or in the case of a partnership or limited liability company, partner(s) or member(s), or any such entity as defined in division (A) of section 4517.01 of the Revised Code;
 - (2) The display lot shall have distinguished areas, identified through signage, for motor vehicles that are being repaired, motor vehicles that are being offered for sale, and customer parking;
 - (3) Notwithstanding the requirement of paragraph (A)(3) of this rule, a private office shall be available that is conducive to transacting business in a confidential manner regarding the sale of a motor vehicle; and
 - (4) Is staffed during posted business hours by a sole proprietor, officer of a corporation, trustee of a business trust, or in the case of a partnership or limited liability company, partner or member, or any such entity as defined in division (A) of section 4517.01 of the Revised Code, or a licensed motor vehicle salesperson under sections 4517.09, 4517.14, and 4517.20 of the Revised Code.

- (D) No motor vehicle dealer, its agent, or its representative shall alter the physical conditions of the established place of business so that it is not in compliance with the requirements of Chapter 4517. of the Revised Code.
- (E) A dealer may make a written request to the registrar for an exception to the barrier requirements as follows:
 - (1) The dealer shall present a plan to clearly identify, distinguish and segregate through signage or other measures any vehicles the dealer is offering for sale from any other vehicles that may be present on the premises at any time;
 - (2) The registrar shall review the plan. If the registrar determines that there is no reasonable health or safety threat to customers, neighbors, or neighboring businesses; that the dealer acted in good faith in buying or leasing the property; and that the dealer has made a reasonable effort to comply with the barrier requirements, but that restrictions imposed by local zoning ordinances or by the lessor prohibit the establishment of a barrier, the registrar, in the registrar's discretion, may approve the plan, approve the plan with modifications, or disapprove the plan.
- (F) In the event that a used motor vehicle dealer's license is sought by an applicant that surrenders a new motor vehicle dealer's license, and specific circumstances prevent the location previously used for operation of the new motor vehicle dealership from meeting all of the requirements of section 4517.03 of the Revised Code and this rule, the registrar may exercise discretion to grant a used motor vehicle dealer's license at said location despite the defect.