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P. Hrngs. \_\_\_\_\_  
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Filed: 04-16-19

Sponsored by: Schilling, Hosmer,  
Ollis, and Simpson

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

COUNCIL BILL 2019-104

GENERAL ORDINANCE \_\_\_\_\_

AN ORDINANCE

1 ADOPTING Springfield City Code Chapter 70, 'Licenses, Permits and Miscellaneous  
2 Business Regulations,' Article XVIII, 'Short-Term Loan Establishments,' to  
3 establish regulations for short-term loan establishments, including a permit  
4 requirement and registration fee.  
5  
6

7 WHEREAS, City Council concludes that the lending and marketing practices of  
8 Short-Term Loan Establishments, as defined herein, result in serious financial hardships  
9 to some of its citizens, particularly its elderly and low-income citizens, from which they  
10 cannot readily extract themselves; can perpetuate poverty; and can increase  
11 dependency upon public financial assistance, housing, health care, and social services;  
12 and  
13

14 WHEREAS, City Council finds that the short-term loan industry targets low-  
15 income citizens, who are most likely to suffer financial hardship as a result of the  
16 lending practices and small loan products offered by Short-Term Loan Establishments;  
17 and  
18

19 WHEREAS, City Council recognizes that the State of Missouri regulates Short-  
20 Term Loan Establishments in certain regards but further recognizes that those State  
21 regulations do not meet the level of protections for consumers common in adjacent  
22 states, nor do they adequately protect the City's citizens from certain lending and  
23 marketing practices of Short-Term Loan Establishments; and  
24

25 WHEREAS, the City has the authority to further regulate Short-Term Loan  
26 Establishments in the manner described below; and  
27

28 WHEREAS, City Council finds that regulation of Short-Term Loan Establishments  
29 is necessary for the promotion and protection of the public health, safety, and welfare of  
30 its citizens, and the public good of maintaining a viable tax base to fund essential  
31 services.  
32

33 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
34 SPRINGFIELD, MISSOURI, as follows, that:

35  
36 NOTE: Language to be added is underlined.

37  
38 Section 1 – Chapter 70, ‘Licenses, Permits and Miscellaneous Business  
39 Regulations,’ Article XVIII, ‘Short-Term Loan Establishments,’ is hereby adopted as  
40 follows:

41  
42 Sec. 70-725. – Title.

43  
44 This Article shall be known as the ‘Short-Term Lending Code.’

45  
46 Sec. 70-726. – Findings and intent of article.

47  
48 City Council finds and declares the following:

49  
50 (a) That the lending and marketing practices of Short-Term Loan  
51 Establishments, as defined herein, results in serious financial  
52 hardships to its citizens, particularly its elderly and low-income  
53 citizens, from which they cannot readily extract themselves; can  
54 perpetuate poverty; and can increase the dependency upon public  
55 financial assistance, housing, health care and social services; and

56  
57 (b) That the patterns of its proliferation demonstrate that the industry  
58 targets low-income citizens most likely to suffer financial hardship  
59 as a result of the lending practices and small-loan products offered  
60 by Short-Term Loan Establishments; and

61  
62 (c) That regulation of Short-Term Loan Establishments is necessary for  
63 the promotion and protection of: the public health, safety, and  
64 welfare of the City’s citizens; and the public good of maintaining a  
65 viable tax base to fund essential services.

66  
67 Sec. 70-727. – Definitions.

68  
69 The following words, when used in the Short-Term Lending Code, shall  
70 have the meanings ascribed to them in this section, except where the context  
71 clearly indicates a different meaning:

72  
73 Director means the Director of the Department of Finance of the City or a  
74 person designated by the Director of the Department of Finance.

75  
76 Permittee means any individual, firm, association, corporation,  
77 partnership, association or organization holding a permit issued by the Director  
78 pursuant to the Short-Term Lending Code to operate a Short-Term Loan

79 Establishment.

80  
81 Premises means the bounds of the facility where a Short-Term Loan  
82 Establishment conducts business and includes parking lots and other adjacent  
83 private property occupied by or used in connection with the business.

84  
85 Short-Term Loan Establishment means an establishment which: (a)  
86 engages in the business of providing money to customers on a temporary basis,  
87 wherein such loans are secured by post-dated check, paycheck, or car title, or  
88 (b) is registered as a lender under state or federal law. This classification does  
89 not include a state or federally chartered bank, savings and loan association,  
90 credit union, or mortgage broker or originator. This classification does not include  
91 nonprofit organizations exempt from taxes under Section 501(c)(3) of the Internal  
92 Revenue Code of 1986 as amended, nor does it include organizations certified  
93 as Community Development Financial Institutions by the U.S. Treasury. Further,  
94 this classification does not include the businesses of licensed pawnbrokers or  
95 establishments selling consumer goods, including consumables, where the loans  
96 or the cashing of checks or money orders are incidental to the main purpose of  
97 the business. This classification does include, but is not limited to, check cashing  
98 stores, payday loan stores, and car title loan businesses.

99  
100 Sec. 70-728. – Applicability of other regulations; conflicting provisions.

101  
102 (a) In the event of a conflict between the provisions of the Short-Term  
103 Lending Code and other ordinances or other parts of the Springfield  
104 City Code, the provisions of the Short-Term Lending Code shall  
105 control.

106  
107 (b) The permit and fees required by the Short-Term Lending Code  
108 shall be in addition to any other licenses, permits, and fees required  
109 by the Springfield City Code.

110  
111 (c) The permit fees required by the Short-Term Lending Code are  
112 intended to defray the costs of investigating and processing the  
113 applications for the permits, of any enforcement efforts required by  
114 the Short-Term Lending Code, and costs to the public for the  
115 economic damage associated with short-term loans.

116  
117 Sec. 70-729. – Permit required.

118  
119 Within sixty (60) days of the effective date of this Ordinance, it shall be  
120 unlawful for any individual, firm, association, corporation, partnership, or  
121 organization:

122  
123 (a) To operate or maintain a Short-Term Loan Establishment in the  
124 City unless the owner, operator, or lessee thereof has applied for

125 and obtained a Short-Term Loan Establishment permit from the  
126 City; or

127  
128 (b) To operate such business after such permit has expired or has  
129 been revoked by the City.

130  
131 A permit shall be required for each location at which a Short-Term Loan  
132 Establishment operates in the City; even a location within another business  
133 operation. A permit shall be valid for a period of time of one calendar year (or the  
134 remaining portion of a calendar year) and must be renewed annually. This permit  
135 shall be in addition to any other permit or license required by other local, state, or  
136 federal government. No permit shall be issued for any business seeking to  
137 operate at a location prohibited by any applicable local, state, or federal law,  
138 statute, ordinance, rule or regulation; provided, however, that a business lawfully  
139 in existence on the date of adoption of the Short-Term Lending Code is eligible to  
140 apply for and receive a permit so long as such business is otherwise compliant  
141 with all laws .

142  
143 Sec. 70-730. – Permit duration; renewal; fees.

144  
145 (a) Permits for the operation of a Short-Term Loan Establishment shall  
146 be annual permits which expire on December 31 of each year.  
147 Each permit shall include the name of the permit holder and  
148 address of the premises. Permits in good standing on the date of  
149 their expiration shall be eligible for renewal. The application for a  
150 permit shall be accompanied by payment in full of the fee stated in  
151 this section, by cash, certified or cashier's check, or money order.  
152 No application shall be considered complete until the fee is paid.  
153 The fee shall not be refunded under any circumstances.

154  
155 (b) The fee for each permit shall be as follows:

156  
157 (1) Short-Term Loan Establishment permit: \$5,000 per year, or  
158 \$2,500 if less than six (6) months remain in the calendar  
159 year on the date a permit is issued.

160  
161  
162 (c) No fees will be effective until approved by a simple majority of the  
163 City's electors.

164  
165 Sec. 70-731. – Compliance with Code.

166  
167 Any violation of the Building Code, Fire Prevention Code, or the Zoning  
168 Ordinance shall be a basis to deny, revoke, or not renew a Short-Term Loan  
169 Establishment permit.

170

171 Sec. 70-732. – Authority to prescribe additional regulations.

172  
173 The Director shall have the power to promulgate regulations as may be  
174 necessary and feasible for carrying out of the intent of the Short-Term Lending  
175 Code and the duties of the Director under the Short-Term Lending Code which  
176 are not inconsistent with the provisions of such Code.

177  
178 Sec. 70-733. – Penalty for violation of Short-Term Lending Code.

179  
180 It shall be unlawful for any person to violate any of the provisions of the  
181 Short-Term Lending Code. Upon conviction thereof, such person shall be fined  
182 not less than \$100 and not more than \$500 or be punished by imprisonment in  
183 jail for a period not exceeding 180 days or be punished by both such fine and  
184 imprisonment. Each day's violation of, or failure, refusal, or neglect to comply  
185 with any provision of the Short-Term Lending Code shall constitute a separate  
186 and distinct offense. The penalties provided in this section are in addition to, and  
187 are separate from, any administrative actions by the Director to revoke or deny  
188 renewal of a permit issued under the Short-Term Lending Code.

189  
190  
191 Sec.70-734. – Judicial review of orders of Director; stay of enforcement of orders.

192  
193 Following the entry of an order by the Director revoking a permit or  
194 denying a new or renewal application for a permit, such permittee or applicant  
195 may seek judicial review in a manner provided by law. The director shall stay  
196 enforcement of such order for a period of time not to exceed 30 days from the  
197 Director's decision or, if a petition for judicial review is filed, final disposition of the  
198 judicial review.

199  
200 Sec. 70-735. – Contents of application.

201  
202 Any person desiring to operate a Short-Term Loan Establishment shall  
203 make written application for a Short-Term Loan Establishment permit or the  
204 renewal thereof to the Director or the Director's designee. The application shall  
205 be signed by the applicant or an authorized signator of the applicant and  
206 notarized. All applications shall be submitted on a form supplied by the Director  
207 and shall set forth at least the following:

208  
209 (a) The name, residence address, electronic mail address, home and  
210 cellular telephone number, and date and place of birth of the  
211 applicant or authorized signator;

212  
213 (b) The business name, street address of the business premises,  
214 electronic mail address of the business, and telephone number of  
215 the business;

- 217           (c) The names, residence addresses, residence and cellular telephone  
218           numbers, and dates and places of birth of the following:  
219  
220           (1) All partners, if the applicant is a partnership;  
221  
222           (2) All members, if the applicant is a limited liability company;  
223  
224           (3) All corporate officers and Directors and all shareholders with  
225           greater than a 10 percent (10%) interest in the corporation, if  
226           the applicant is a corporation; and  
227  
228           (4) All persons having an ownership interest in any other type of  
229           business entity or association.  
230  
231           (d) Whether or not the applicant and/or authorized signator has been  
232           convicted of violating any provision of the Short-Term Lending  
233           Code; has been convicted of a felony, misdemeanor, infraction or  
234           ordinance violation involving moral turpitude, a breach of a fiduciary  
235           obligation, or crimes of physical violence or against property; or has  
236           ever had a permit issued under the Short-Term Lending Code  
237           revoked and, if so, the reason therefore;  
238  
239           (e) If the applicant is a Missouri corporation, a certificate of good  
240           standing issued by the Missouri secretary of state not more than 30  
241           days prior to the submittal of the application or, if a foreign  
242           corporation, a certificate of authority to do business issued by the  
243           Missouri secretary of state not more than 30 days prior to the  
244           submittal of the application; and  
245  
246           (f) Such further information as the Director may reasonably require.  
247

248           Sec. 70-736. – Criteria for issuance of permit.  
249

250           The Director shall investigate the application for a Short-Term Loan  
251           Establishment permit and shall issue the permit authorized by the Short-Term  
252           Lending Code if the Director finds that each of the following conditions is met  
253           without exception:  
254

- 255           (a) Applicant is current in the payment of all taxes, fees, and other  
256           amounts due to the City on any account, for any purpose;  
257  
258           (b) The application appears to be truthful, complete, and accurate;  
259  
260           (c) The application is accompanied by the required fee;  
261

262           (d) The location of the premises meets all applicable spacing, distance  
263           and location requirements of applicable zoning ordinances, or the  
264           Establishment was lawfully in existence on the date of adoption of  
265           the Short-Term Lending Code and was authorized to be in non-  
266           conformance;

267  
268           (e) The premises meet all other applicable health, safety, zoning,  
269           property maintenance, building and fire codes, and comply with all  
270           ordinances of the City;

271  
272           (f) Applicant has provided the Director with a designated agent for  
273           service who can regularly be contacted in the City during normal  
274           business hours;

275  
276           The Director or a designee is authorized to make inspections of the Short-Term  
277           Loan Establishment's premises at reasonable times and hours of any day for  
278           purposes of determining whether such Short-Term Loan Establishment fully  
279           complies with the provisions of the Short-Term Lending Code.

280  
281           Sec. 70-737. – Approval or disapproval of application and hearing.

282  
283           (a) The application for a Short-Term Loan Establishment permit, or the  
284           renewal thereof, authorized under the Short-Term Lending Code  
285           shall be approved or disapproved within 30 days from the date of  
286           the Director's determination that the application is complete, unless  
287           the applicant agrees in writing to an extension of that time period. If  
288           a permit application is disapproved, the Director shall notify the  
289           applicant by registered or certified mail to the business address  
290           stated in the applicant's application and shall state the basis for  
291           such disapproval.

292  
293           (b) If within ten (10) days after the Director mails notice to an applicant  
294           that the application has been disapproved, the applicant files with  
295           the Director a written request for a hearing before the Director on  
296           whether the applicant has satisfied the criteria set forth in this  
297           Section 70-736 of the Short-Term Lending Code; then, the Director  
298           shall within five days of receipt of a timely request, mail a notice of  
299           hearing to the applicant, which shall include the date, time and  
300           place for the hearing before the Director. The date for the hearing  
301           shall not be less than 10 days, nor more than 40 days, following  
302           receipt by the Director of the request for a hearing by applicant  
303           under this section, unless the aggrieved party requesting the  
304           hearing agrees to extend the time for the hearing or except for good  
305           cause shown.

306

307 Sec. 70-738. – Display of permit.

308  
309 Every individual, firm, corporation, partnership, organization, or  
310 association holding a permit under the Short-Term Lending Code as a Short-  
311 Term Loan Establishment shall post its permit in a conspicuous place and  
312 manner on the premises.

313  
314 Sec. 70-739. – Compliance with the Short-Term Lending Code and other  
315 regulations.

316  
317 It shall be the duty of a permittee to comply with all the provisions of the  
318 Short-Term Lending Code and with all regulations issued by the Director  
319 pertaining to Short-Term Loan Establishments. Failure to comply with the Short-  
320 Term Lending Code or regulations after written notification of noncompliance has  
321 been delivered to the permittee by the City is a permissible basis for revocation  
322 or nonrenewal of the permit.

323  
324 Sec. 70-740. – Notice on premises required.

325  
326 (a) It shall be the affirmative duty of each permittee to post a notice  
327 printed in not less than 24-point bold type within 3 feet of each  
328 location within the premises at which a customer, borrower, or other  
329 member of the general public is invited or directed to stand or sit to  
330 either apply for a loan, to answer or ask questions, to review or sign  
331 transaction documents, or receive loan proceeds, to make  
332 payments or to inquire about, or apply for, the renewal or the rolling  
333 over of a loan, which sets out the following information:

334  
335 (1) The word “NOTICE” in bold capital letters;

336  
337 (2) That this establishment is a short-term loan establishment  
338 and is not a federally chartered bank, savings and loan  
339 association, or credit union;

340  
341 (3) The interest rates and fees charged;

342  
343 (4) The annual percentage rate equivalent of the aggregate of  
344 those interest rates and fees charged per \$100.00  
345 borrowed;

346  
347 (5) A computation of the amounts that would be paid on an  
348 original loan renewed or rolled-over after the expiration of  
349 its original term without any payment of either principal or  
350 interest each time, up to six times;

351



352                                   (6) A warning that default may result in loss of property used as  
353                                   security for the loan and garnishment of wages and  
354                                   checking and savings accounts; and

355  
356                                   (7) Notice and clear explanation of any state or federal rights to  
357                                   rescind the loan agreement.

358  
359                                   (b) Failure to comply with the requirement of this section and all other  
360                                   requirements of the Short-Term Lending Code is unlawful.

361  
362                   Sec. 70-741. – Referral to Alternative Financial Assistance

363  
364                   It shall be the affirmative duty of each permittee to provide to all interested  
365                   customers and patrons a guide regarding alternatives to short-term loans which  
366                   has been pre-approved by the City. Should such guide be supplemented or  
367                   revised, permittee shall distribute the then-current guide approved by the City for  
368                   distribution.

369  
370                   Sec.70-742. – Revocation or denial.

371  
372                   (a) Any permit issued under the provisions of the Short-Term Lending  
373                   Code may be revoked or any permit may be denied by the Director,  
374                   after due notice and affording an opportunity for a hearing, for any  
375                   violation of the provisions of the Short-Term Lending Code and as  
376                   otherwise provided in the Springfield City Code, including without  
377                   limitation, Section 70-51.

378  
379                   (b) Procedures. The procedure for and conduct of hearings under this  
380                   section shall be as set forth in Section 70-51.

381  
382                   Sec.70-743. – Renewal of permit.

383  
384                   (a) All Short-Term Loan Establishment permits shall expire on  
385                   December 31 of each calendar year. Renewal applications for such  
386                   permits shall be submitted between October 1 and November 30 of  
387                   each calendar year, accompanied by payment in full of the fee  
388                   stated in the Short-Term Lending Code, by cash, certified or  
389                   cashier's check, or money order, and no application shall be  
390                   considered complete until the fee is paid. The fee shall not be  
391                   refunded under any circumstances. A Short-Term Loan  
392                   Establishment permit issued under the Short-Term Lending Code  
393                   may be renewed if an application in the form provided by the  
394                   Director has been filed with the application fee with the Director and  
395                   if the applicant is in compliance with the requirements of the Short-  
396                   Term Lending Code for an original permit including but not limited

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to Section 70-736 of the Short-Term Lending Code.

(b) Upon timely application therefore, and subject to meeting the requirements in the Short-Term Lending Code for a new permit, a Short-Term Loan Establishment permit may be renewed by issuance of a new permit in the manner provided in the Short-Term Lending Code unless the Director disapproves the renewal application in the manner provided by Section 70-737 of the Short-Term Lending Code.

(c) If the application for renewal of a permit is not made during the time provided in subsection (a) of this section, the permit shall expire and the permittee shall cease all activities regulated by the Short-Term Lending Code and the permittee shall file a new application and meet all requirements of the Short-Term Lending Code before engaging in the business or occupations regulated under the short Term Lending Code. In addition, an application for renewal filed after the expiration date shall be treated as a new application.

Section 2 – Savings clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause of causes of action occurred or existing, under any act or ordinance repealed hereby.

Section 3 – Severability Clause. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4 – This Ordinance shall be in full force and effect from and after passage except that the fee provision shall not be in full force and effect until 60 days after the voters of the City of Springfield pass a ballot measure that authorizes the fee for the Short-Term Loan Establishment permit described in this Ordinance.

Passed at meeting: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_, City Clerk

Filed as Ordinance: \_\_\_\_\_

443 Approved as to form: Rhonda Lewsader, City Attorney

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445

446 Approved for Council action: Jason A. Page, City Manager

**EXPLANATION TO COUNCIL BILL 2019-104**

FILED: 04-16-19

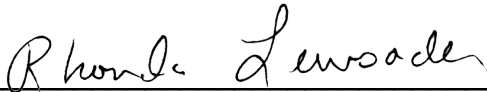
ORIGINATING DEPARTMENT: Law

PURPOSE: Adopting Springfield City Code Chapter 70, 'Licenses, Permits and Miscellaneous Business Regulations,' Article XVIII, 'Short-Term Loan Establishments,' to establish regulations for short-term loan establishments, including a permit requirement and registration fee.

BACKGROUND INFORMATION: The Finance and Administration Committee considered the issue of regulating short-term loan establishments. The Committee heard testimony regarding short-term loan establishments and their impact on low-income citizens and requested that staff draft an ordinance similar to the St. Louis ordinance regulating short-term loan establishments which was then modified pursuant to Committee input. This Ordinance establishes regulations for short-term loan establishments including an annual permit, a permit fee, compliance with City Code, and a notice regarding loan information on the establishment's premises. The permit fee will not go into effect unless a ballot measure approving the fee is passed by the public.

Submitted by:

Approved by:

  
Rhonda Lewsader, City Attorney

  
Jason Gage, City Manager