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Sponsored by: McClure

First Reading _____
SUBSTITUTE
COUNCIL BILL 2019-104

Second Reading _____
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.
4
5

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

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

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

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

27 WHEREAS, City Council finds that regulation of Short-Term Loan Establishments
28 is necessary for the promotion and protection of the public health, safety, and welfare of
29 its citizens, and the public good of maintaining a viable tax base to fund essential
30 services.
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32 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
33 SPRINGFIELD, MISSOURI, as follows, that:

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NOTE: Language to be added is underlined.

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

Sec. 70-725. – Title.

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

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

City Council finds and declares the following:

- (a) That the lending and marketing practices of Short-Term Loan Establishments, as defined herein, results in serious financial hardships to its citizens, particularly its elderly and low-income citizens, from which they cannot readily extract themselves; can perpetuate poverty; and can increase the dependency upon public financial assistance, housing, health care and social services; and
- (b) That the patterns of its proliferation demonstrate that the industry targets low-income citizens most likely to suffer financial hardship as a result of the lending practices and small-loan products offered by Short-Term Loan Establishments; and
- (c) That regulation of Short-Term Loan Establishments is necessary for the promotion and protection of: the public health, safety, and welfare of the City’s citizens; and the public good of maintaining a viable tax base to fund essential services.

Sec. 70-727. – Definitions.

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

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

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

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

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

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

100
101 (a) In the event of a conflict between the provisions of the Short-Term
102 Lending Code and other ordinances or other parts of the Springfield
103 City Code, the provisions of the Short-Term Lending Code shall
104 control.
105

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

110 Sec. 70-729. – Permit required.

111
112 Within sixty (60) days of the effective date of this Ordinance, it shall be
113 unlawful for any individual, firm, association, corporation, partnership, or
114 organization:
115

116 (a) To operate or maintain a Short-Term Loan Establishment in the
117 City unless the owner, operator, or lessee thereof has applied for
118 and obtained a Short-Term Loan Establishment permit from the
119 City; or
120

121 (b) To operate such business after such permit has expired or has
122 been revoked by the City.
123

124 A permit shall be required for each location at which a Short-Term Loan
125 Establishment operates in the City; even a location within another business

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

135
136 Sec. 70-730. – Permit duration; renewal.
137

138 Permits for the operation of a Short-Term Loan Establishment shall be annual
139 permits which expire on December 31 of each year. Each permit shall include the
140 name of the permit holder and address of the premises. Permits in good standing
141 on the date of their expiration shall be eligible for renewal.
142

143 Sec. 70-731. – Compliance with Code.
144

145 Any violation of the Building Code, Fire Prevention Code, or the Zoning
146 Ordinance shall be a basis to deny, revoke, or not renew a Short-Term Loan
147 Establishment permit.
148

149 Sec. 70-732. – Authority to prescribe additional regulations.
150

151 The Director shall have the power to promulgate regulations as may be
152 necessary and feasible for carrying out of the intent of the Short-Term Lending
153 Code and the duties of the Director under the Short-Term Lending Code which
154 are not inconsistent with the provisions of such Code.
155

156 Sec. 70-733. – Penalty for violation of Short-Term Lending Code.
157

158 It shall be unlawful for any person to violate any of the provisions of the
159 Short-Term Lending Code. Upon conviction thereof, such person shall be fined
160 not less than \$100 and not more than \$500 or be punished by imprisonment in
161 jail for a period not exceeding 180 days or be punished by both such fine and
162 imprisonment. Each day's violation of, or failure, refusal, or neglect to comply
163 with any provision of the Short-Term Lending Code shall constitute a separate
164 and distinct offense. The penalties provided in this section are in addition to, and
165 are separate from, any administrative actions by the Director to revoke or deny
166 renewal of a permit issued under the Short-Term Lending Code.
167

168
169 Sec.70-734. – Judicial review of orders of Director; stay of enforcement of orders.
170

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

177
178 Sec. 70-735. – Contents of application.
179

180 Any person desiring to operate a Short-Term Loan Establishment shall
181 make written application for a Short-Term Loan Establishment permit or the
182 renewal thereof to the Director or the Director's designee. The application shall
183 be signed by the applicant or an authorized signator of the applicant and
184 notarized. All applications shall be submitted on a form supplied by the Director
185 and shall set forth at least the following:
186

- 187 (a) The name, residence address, electronic mail address, home and
188 cellular telephone number, and date and place of birth of the
189 applicant or authorized signator;
190
191 (b) The business name, street address of the business premises,
192 electronic mail address of the business, and telephone number of
193 the business;
194
195 (c) The names, residence addresses, residence and cellular telephone
196 numbers, and dates and places of birth of the following:
197
198 (1) All partners, if the applicant is a partnership;
199
200 (2) All members, if the applicant is a limited liability company;
201
202 (3) All corporate officers and Directors and all shareholders with
203 greater than a 10 percent (10%) interest in the corporation, if
204 the applicant is a corporation; and
205
206 (4) All persons having an ownership interest in any other type of
207 business entity or association.
208
209 (d) Whether or not the applicant and/or authorized signator has been
210 convicted of violating any provision of the Short-Term Lending
211 Code; has been convicted of a felony, misdemeanor, infraction or
212 ordinance violation involving moral turpitude, a breach of a fiduciary
213 obligation, or crimes of physical violence or against property; or has
214 ever had a permit issued under the Short-Term Lending Code
215 revoked and, if so, the reason therefore;
216

- 217 (e) If the applicant is a Missouri corporation, a certificate of good
218 standing issued by the Missouri secretary of state not more than 30
219 days prior to the submittal of the application or, if a foreign
220 corporation, a certificate of authority to do business issued by the
221 Missouri secretary of state not more than 30 days prior to the
222 submittal of the application; and
- 223
- 224 (f) Such further information as the Director may reasonably require.
225

226 Sec. 70-736. – Criteria for issuance of permit.
227

228 The Director shall investigate the application for a Short-Term Loan
229 Establishment permit and shall issue the permit authorized by the Short-Term
230 Lending Code if the Director finds that each of the following conditions is met
231 without exception:
232

- 233 (a) Applicant is current in the payment of all taxes, fees, and other
234 amounts due to the City on any account, for any purpose;
235
- 236 (b) The application appears to be truthful, complete, and accurate;
237
- 238 (c) The location of the premises meets all applicable spacing, distance
239 and location requirements of applicable zoning ordinances, or the
240 Establishment was lawfully in existence on the date of adoption of
241 the Short-Term Lending Code and was authorized to be in non-
242 conformance;
243
- 244 (d) The premises meet all other applicable health, safety, zoning,
245 property maintenance, building and fire codes, and comply with all
246 ordinances of the City;
247
- 248 (e) Applicant has provided the Director with a designated agent for
249 service who can regularly be contacted in the City during normal
250 business hours;
251

252 The Director or a designee is authorized to make inspections of the Short-Term
253 Loan Establishment's premises at reasonable times and hours of any day for
254 purposes of determining whether such Short-Term Loan Establishment fully
255 complies with the provisions of the Short-Term Lending Code.
256

257 Sec. 70-737. – Approval or disapproval of application and hearing.
258

- 259 (a) The application for a Short-Term Loan Establishment permit, or the
260 renewal thereof, authorized under the Short-Term Lending Code
261 shall be approved or disapproved within 30 days from the date of
262 the Director's determination that the application is complete, unless

263 the applicant agrees in writing to an extension of that time period. If
264 a permit application is disapproved, the Director shall notify the
265 applicant by registered or certified mail to the business address
266 stated in the applicant's application and shall state the basis for
267 such disapproval.

268
269 (b) If within ten (10) days after the Director mails notice to an applicant
270 that the application has been disapproved, the applicant files with
271 the Director a written request for a hearing before the Director on
272 whether the applicant has satisfied the criteria set forth in this
273 Section 70-736 of the Short-Term Lending Code; then, the Director
274 shall within five days of receipt of a timely request, mail a notice of
275 hearing to the applicant, which shall include the date, time and
276 place for the hearing before the Director. The date for the hearing
277 shall not be less than 10 days, nor more than 40 days, following
278 receipt by the Director of the request for a hearing by applicant
279 under this section, unless the aggrieved party requesting the
280 hearing agrees to extend the time for the hearing or except for good
281 cause shown.

282
283 Sec. 70-738. – Display of permit.

284
285 Every individual, firm, corporation, partnership, organization, or
286 association holding a permit under the Short-Term Lending Code as a Short-
287 Term Loan Establishment shall post its permit in a conspicuous place and
288 manner on the premises.

289
290 Sec. 70-739. – Compliance with the Short-Term Lending Code and other
291 regulations.

292
293 It shall be the duty of a permittee to comply with all the provisions of the
294 Short-Term Lending Code and with all regulations issued by the Director
295 pertaining to Short-Term Loan Establishments. Failure to comply with the Short-
296 Term Lending Code or regulations after written notification of noncompliance has
297 been delivered to the permittee by the City is a permissible basis for revocation
298 or nonrenewal of the permit.

299
300 Sec. 70-740. – Notice on premises required.

301
302 (a) It shall be the affirmative duty of each permittee to post a notice
303 printed in not less than 24-point bold type within 3 feet of each
304 location within the premises at which a customer, borrower, or other
305 member of the general public is invited or directed to stand or sit to
306 either apply for a loan, to answer or ask questions, to review or sign
307 transaction documents, or receive loan proceeds, to make

308 payments or to inquire about, or apply for, the renewal or the rolling
309 over of a loan, which sets out the following information:

- 310
- 311 (1) The word "NOTICE" in bold capital letters;
- 312
- 313 (2) That this establishment is a short-term loan establishment
314 and is not a federally chartered bank, savings and loan
315 association, or credit union;
- 316
- 317 (3) The interest rates and fees charged;
- 318
- 319 (4) The annual percentage rate equivalent of the aggregate of
320 those interest rates and fees charged per \$100.00
321 borrowed;
- 322
- 323 (5) A computation of the amounts that would be paid on an
324 original loan renewed or rolled-over after the expiration of
325 its original term without any payment of either principal or
326 interest each time, up to six times;
- 327
- 328 (6) A warning that default may result in loss of property used as
329 security for the loan and garnishment of wages and
330 checking and savings accounts; and
- 331
- 332 (7) Notice and clear explanation of any state or federal rights to
333 rescind the loan agreement.

334

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

337

338 Sec. 70-741. – Referral to Alternative Financial Assistance

339

340 It shall be the affirmative duty of each permittee to provide to all interested
341 customers and patrons a guide regarding alternatives to short-term loans which
342 has been pre-approved by the City. Should such guide be supplemented or
343 revised, permittee shall distribute the then-current guide approved by the City for
344 distribution.

345

346 Sec.70-742. – Revocation or denial.

347

348 (a) Any permit issued under the provisions of the Short-Term Lending
349 Code may be revoked or any permit may be denied by the Director,
350 after due notice and affording an opportunity for a hearing, for any
351 violation of the provisions of the Short-Term Lending Code and as
352 otherwise provided in the Springfield City Code, including without

353 limitation, Section 70-51.

354
355 (b) Procedures. The procedure for and conduct of hearings under this
356 section shall be as set forth in Section 70-51.

357
358 Sec.70-743. – Renewal of permit.

359
360 (a) All Short-Term Loan Establishment permits shall expire on
361 December 31 of each calendar year. Renewal applications for such
362 permits shall be submitted between October 1 and November 30 of
363 each calendar year. A Short-Term Loan Establishment permit
364 issued under the Short-Term Lending Code may be renewed if an
365 application in the form provided by the Director has been filed with
366 the Director and if the applicant is in compliance with the
367 requirements of the Short-Term Lending Code for an original permit
368 including but not limited to Section 70-736 of the Short-Term
369 Lending Code.

370
371 (b) Upon timely application therefore, and subject to meeting the
372 requirements in the Short-Term Lending Code for a new permit, a
373 Short-Term Loan Establishment permit may be renewed by
374 issuance of a new permit in the manner provided in the Short-Term
375 Lending Code unless the Director disapproves the renewal
376 application in the manner provided by Section 70-737 of the Short-
377 Term Lending Code.

378
379 (c) If the application for renewal of a permit is not made during the time
380 provided in subsection (a) of this section, the permit shall expire
381 and the permittee shall cease all activities regulated by the Short-
382 Term Lending Code and the permittee shall file a new application
383 and meet all requirements of the Short-Term Lending Code before
384 engaging in the business or occupations regulated under the short
385 Term Lending Code. In addition, an application for renewal filed
386 after the expiration date shall be treated as a new application.

387
388 Section 2 – Savings clause. Nothing in this Ordinance shall be construed to
389 affect any suit or proceeding now pending in any court or any rights acquired, or liability
390 incurred nor any cause of causes of action occurred or existing, under any act or
391 ordinance repealed hereby.

392
393 Section 3 – Severability Clause. If any section, subsection, sentence, clause, or
394 phrase of this Ordinance is for any reason held to be invalid, such decision shall not
395 affect the validity of the remaining portions of this Ordinance. City Council hereby
396 declares that it would have adopted the Ordinance and each section, subsection,
397 sentence, clause or phrase thereof, irrespective of the fact that any one or more
398 sections, subsections, sentences, clauses, or phrases be declared invalid.

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Section 4 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: Rhonda Lewsader, City Attorney

Approved for Council action: Jason A. Hays, City Manager

EXPLANATION TO SUBSTITUTE COUNCIL BILL 2019-104

FILED: 04-16-19


ORIGINATING DEPARTMENT: Law

PURPOSE: To adopt 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.

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. The Finance and Administration Committee voted to recommend to City Council an ordinance establishing 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 would not go into effect unless a ballot measure approving the fee is passed by the public. Mayor McClure requested that staff prepare this substitute version of the ordinance that does not include a permit fee.

Submitted by:

Approved by:


Rhonda Lewsader, City Attorney


Jason Gage, City Manager