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Sponsored by: City Council

First Reading _____
SUBSTITUTE 2
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, 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 (c) No fees will be effective until approved by a simple majority of the
162 City's electors.

163
164 Sec. 70-731. – Compliance with Code.

165
166 Any violation of the Building Code, Fire Prevention Code, or the Zoning
167 Ordinance shall be a basis to deny, revoke, or not renew a Short-Term Loan
168 Establishment permit.

169

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

171
172 The Director shall have the power to promulgate regulations as may be
173 necessary and feasible for carrying out of the intent of the Short-Term Lending
174 Code and the duties of the Director under the Short-Term Lending Code which
175 are not inconsistent with the provisions of such Code.

176
177 Sec. 70-733. – Penalty for violation of Short-Term Lending Code.

178
179 It shall be unlawful for any person to violate any of the provisions of the
180 Short-Term Lending Code. Upon conviction thereof, such person shall be fined
181 not less than \$100 and not more than \$500 or be punished by imprisonment in
182 jail for a period not exceeding 180 days or be punished by both such fine and
183 imprisonment. Each day's violation of, or failure, refusal, or neglect to comply
184 with any provision of the Short-Term Lending Code shall constitute a separate
185 and distinct offense. The penalties provided in this section are in addition to, and
186 are separate from, any administrative actions by the Director to revoke or deny
187 renewal of a permit issued under the Short-Term Lending Code.

188
189 Sec.70-734. – Judicial review of orders of Director; stay of enforcement of orders.

190
191 Following the entry of an order by the Director revoking a permit or
192 denying a new or renewal application for a permit, such permittee or applicant
193 may seek judicial review in a manner provided by law. The director shall stay
194 enforcement of such order for a period of time not to exceed 30 days from the
195 Director's decision or, if a petition for judicial review is filed, final disposition of the
196 judicial review.

197
198 Sec. 70-735. – Contents of application.

199
200 Any person desiring to operate a Short-Term Loan Establishment shall
201 make written application for a Short-Term Loan Establishment permit or the
202 renewal thereof to the Director or the Director's designee. The application shall
203 be signed by the applicant or an authorized signator of the applicant and
204 notarized. All applications shall be submitted on a form supplied by the Director
205 and shall set forth at least the following:

206
207 (a) The name, residence address, electronic mail address, home and
208 cellular telephone number, and date and place of birth of the
209 applicant or authorized signator;

210
211 (b) The business name, street address of the business premises,
212 electronic mail address of the business, and telephone number of
213 the business;

214

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

246 Sec. 70-736. – Criteria for issuance of permit.
247

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

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

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

265
266 (e) The premises meet all other applicable health, safety, zoning,
267 property maintenance, building and fire codes, and comply with all
268 ordinances of the City;

269
270 (f) Applicant has provided the Director with a designated agent for
271 service who can regularly be contacted in the City during normal
272 business hours;

273
274 The Director or a designee is authorized to make inspections of the Short-Term
275 Loan Establishment's premises at reasonable times and hours of any day for
276 purposes of determining whether such Short-Term Loan Establishment fully
277 complies with the provisions of the Short-Term Lending Code.

278
279 Sec. 70-737. – Approval or disapproval of application and hearing.

280
281 (a) The application for a Short-Term Loan Establishment permit, or the
282 renewal thereof, authorized under the Short-Term Lending Code
283 shall be approved or disapproved within 30 days from the date of
284 the Director's determination that the application is complete, unless
285 the applicant agrees in writing to an extension of that time period. If
286 a permit application is disapproved, the Director shall notify the
287 applicant by registered or certified mail to the business address
288 stated in the applicant's application and shall state the basis for
289 such disapproval.

290
291 (b) If within ten (10) days after the Director mails notice to an applicant
292 that the application has been disapproved, the applicant files with
293 the Director a written request for a hearing before the Director on
294 whether the applicant has satisfied the criteria set forth in this
295 Section 70-736 of the Short-Term Lending Code; then, the Director
296 shall within five days of receipt of a timely request, mail a notice of
297 hearing to the applicant, which shall include the date, time and
298 place for the hearing before the Director. The date for the hearing
299 shall not be less than 10 days, nor more than 40 days, following
300 receipt by the Director of the request for a hearing by applicant
301 under this section, unless the aggrieved party requesting the
302 hearing agrees to extend the time for the hearing or except for good
303 cause shown.

304
305

306 Sec. 70-738. – Display of permit.

307
308 Every individual, firm, corporation, partnership, organization, or
309 association holding a permit under the Short-Term Lending Code as a Short-
310 Term Loan Establishment shall post its permit in a conspicuous place and
311 manner on the premises.

312
313 Sec. 70-739. – Compliance with the Short-Term Lending Code and other
314 regulations.

315
316 It shall be the duty of a permittee to comply with all the provisions of the
317 Short-Term Lending Code and with all regulations issued by the Director
318 pertaining to Short-Term Loan Establishments. Failure to comply with the Short-
319 Term Lending Code or regulations after written notification of noncompliance has
320 been delivered to the permittee by the City is a permissible basis for revocation
321 or nonrenewal of the permit.

322
323 Sec. 70-740. – Notice on premises required.

324
325 (a) It shall be the affirmative duty of each permittee to post a notice
326 printed in not less than 24-point bold type within 3 feet of each
327 location within the premises at which a customer, borrower, or other
328 member of the general public is invited or directed to stand or sit to
329 either apply for a loan, to answer or ask questions, to review or sign
330 transaction documents, or receive loan proceeds, to make
331 payments or to inquire about, or apply for, the renewal or the rolling
332 over of a loan, which sets out the following information:

333
334 (1) The word “NOTICE” in bold capital letters;

335
336 (2) That this establishment is a short-term loan establishment
337 and is not a federally chartered bank, savings and loan
338 association, or credit union;

339
340 (3) The interest rates and fees charged;

341
342 (4) The annual percentage rate equivalent of the aggregate of
343 those interest rates and fees charged per \$100.00
344 borrowed;

345
346 (5) A computation of the amounts that would be paid on an
347 original loan renewed or rolled-over after the expiration of
348 its original term without any payment of either principal or
349 interest each time, up to six times;

350

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

354
355 (7) Notice and clear explanation of any state or federal rights to
356 rescind the loan agreement.

357
358 (b) Failure to comply with the requirement of this section and all other
359 requirements of the Short-Term Lending Code is unlawful.

360
361 Sec. 70-741. – Referral to Alternative Financial Assistance

362
363 It shall be the affirmative duty of each permittee to provide to all interested
364 customers and patrons a guide regarding alternatives to short-term loans which
365 has been pre-approved by the City. Should such guide be supplemented or
366 revised, permittee shall distribute the then-current guide approved by the City for
367 distribution.

368
369 Sec.70-742. – Payoff disclosure.

370
371 Short-Term Loan Establishments shall provide borrowers payoff
372 information in writing upon request, including what forms of repayment will be
373 accepted and an exact payoff amount that includes all applicable fees and an
374 interest per diem amount.

375
376 Sec.70-743. – Revocation or denial.

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

384
385 (b) Procedures. The procedure for and conduct of hearings under this
386 section shall be as set forth in Section 70-51.

387
388 Sec.70-744. – Renewal of permit.

389
390 (a) All Short-Term Loan Establishment permits shall expire on
391 December 31 of each calendar year. Renewal applications for such
392 permits shall be submitted between October 1 and November 30 of
393 each calendar year, accompanied by payment in full of the fee
394 stated in the Short-Term Lending Code, by cash, certified or
395 cashier's check, or money order, and no application shall be
396 considered complete until the fee is paid. The fee shall not be

397 refunded under any circumstances. A Short-Term Loan
398 Establishment permit issued under the Short-Term Lending Code
399 may be renewed if an application in the form provided by the
400 Director has been filed with the application fee with the Director and
401 if the applicant is in compliance with the requirements of the Short-
402 Term Lending Code for an original permit including but not limited
403 to Section 70-736 of the Short-Term Lending Code.

404
405 (b) Upon timely application therefore, and subject to meeting the
406 requirements in the Short-Term Lending Code for a new permit, a
407 Short-Term Loan Establishment permit may be renewed by
408 issuance of a new permit in the manner provided in the Short-Term
409 Lending Code unless the Director disapproves the renewal
410 application in the manner provided by Section 70-737 of the Short-
411 Term Lending Code.

412
413 (c) If the application for renewal of a permit is not made during the time
414 provided in subsection (a) of this section, the permit shall expire
415 and the permittee shall cease all activities regulated by the Short-
416 Term Lending Code and the permittee shall file a new application
417 and meet all requirements of the Short-Term Lending Code before
418 engaging in the business or occupations regulated under the short
419 Term Lending Code. In addition, an application for renewal filed
420 after the expiration date shall be treated as a new application.

421
422 Sec.70-745. – Consumer point of contact.

423
424 The City Manager shall designate an employee or department of the City as a
425 point of contact for consumer complaints, questions, and referrals related to Short-Term
426 Loan Establishments.

427
428 Section 2 – Savings clause. Nothing in this Ordinance shall be construed to
429 affect any suit or proceeding now pending in any court or any rights acquired, or liability
430 incurred nor any cause of causes of action occurred or existing, under any act or
431 ordinance repealed hereby.

432
433 Section 3 – Severability Clause. If any section, subsection, sentence, clause, or
434 phrase of this Ordinance is for any reason held to be invalid, such decision shall not
435 affect the validity of the remaining portions of this Ordinance. City Council hereby
436 declares that it would have adopted the Ordinance and each section, subsection,
437 sentence, clause or phrase thereof, irrespective of the fact that any one or more
438 sections, subsections, sentences, clauses, or phrases be declared invalid.

439
440 Section 4 – This Ordinance shall be in full force and effect from and after
441 passage except that the fee provision shall not be in full force and effect until 60 days
442 after the voters of the City of Springfield pass a ballot measure that authorizes the fee

443 for the Short-Term Loan Establishment permit described in this Ordinance.

444

445 Passed at meeting: _____

446

447 _____

448

Mayor

449

450 Attest: _____, City Clerk

451

452 Filed as Ordinance: _____

453

454

455 Approved as to form: Rhonda Lewsader, City Attorney

456

457

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

459

EXPLANATION TO SUBSTITUTE 2 COUNCIL BILL 2019-104

FILED: 04-14-20

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. An Ordinance was referred to Council, who considered it as a Committee of the Whole and requested that the City Manager convene a working group that would study short-term lending issues and report back to Council.

The working group provided a report which included recommendations that provisions requiring payoff disclosures to borrowers upon request and establishing a consumer point of contact in the City be added to the Ordinance. The recommended provisions were added to the Ordinance.

This Ordinance establishes regulations for short-term loan establishments including an annual permit, a permit fee, compliance with City Code, a notice regarding loan information on the establishment's premises, and payoff disclosures. 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