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P. Hrngs. \_\_\_\_\_  
Pgs. 4  
Filed: 02-06-18

Sponsored by: Hosmer

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

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

COUNCIL BILL NO. 2018- 049

GENERAL ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE

1 AMENDING Springfield City Code, Chapter 36 – ‘Land Development Code,’ Article X. –  
2 ‘Uniform Enforcement Procedures,’ Division 1. – ‘Administrative  
3 Enforcement,’ Sec. 36-1002. – ‘Definitions’; Chapter 70 – ‘Licenses,  
4 Permits and Miscellaneous Business Regulations,’ Article VI. –  
5 ‘Locksmiths,’ Sec. 70-300. – ‘Appeals’; and Chapter 94 – ‘Solid Waste,’  
6 Article II. – ‘Disposal Areas,’ Sec. 94-41. – ‘Penalty for violation of article;’  
7 for the purpose of clarifying and harmonizing certain administrative  
8 hearing procedures.  
9

10  
11 WHEREAS, a municipal judge may not conduct an administrative hearing; and

12  
13 WHEREAS, certain Springfield City Code sections should be revised to remove  
14 language indicating a municipal judge may be an administrative hearing officer; and

15  
16 WHEREAS, the appeals procedure related to a locksmith license is not  
17 consistent with the appeals procedure for other business licenses and should be  
18 revised.

19  
20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
21 SPRINGFIELD, MISSOURI, as follows, that:

22  
23 NOTE: Language being added is underlined and language being removed is  
24 ~~stricken~~.

25  
26 Section 1 – Chapter 36 – ‘Land Development Code,’ Article X. – ‘Uniform  
27 Enforcement Procedures,’ Division 1. – ‘Administrative Enforcement,’ Sec. 36-1002. –  
28 ‘Definitions’ is hereby amended as follows:

29  
30 Sec. 36-1002. - Definitions.

31  
32 Definitions set forth in RSMo 536.010 apply to this article as well as the  
33 following definitions: An "administrative hearing officer" means that person

34 designated in writing by the city manager, in which the designation shall be on  
35 file in the city clerk's office and the office of the department or agency charged  
36 with administration of the applicable code. Such person may be an administrative  
37 official in the department who has responsibility for administration of the  
38 applicable code or an attorney, ~~including a municipal judge~~. An "administrative  
39 official" means that person designated in the applicable code as having duties to  
40 perform hereunder with respect to the code.

41  
42 Section 2 – Chapter 70 – ‘Licenses, Permits and Miscellaneous Business  
43 Regulations,’ Article VI. – ‘Locksmiths,’ Sec. 70-300. – ‘Appeals’ is hereby amended as  
44 follows:

45  
46 Sec. 70-300. - Appeals.

47  
48 (a) Any person who has been denied a locksmith’s license or who has been  
49 notified of a suspension or revocation of a locksmith’s license aggrieved  
50 by the Director of Finance shall have the right to appeal the denial,  
51 suspension, or revocation in ~~to a hearing on any denial, revocation or~~  
52 ~~suspension of a locksmith's license before an~~ the administrative hearing  
53 officer if a written request for a hearing is filed with the Director of Finance  
54 within ten days of the denial or notice of the suspension or revocation.  
55 Upon receipt of a timely written request for a hearing, the City Manager  
56 may designate a hearing officer to hear and decide the appeal. ~~For~~  
57 ~~purposes of this section, the administrative hearing officer shall be the~~  
58 ~~judge of the municipal court, except that, if he cannot serve, the city~~  
59 ~~manager is authorized to appoint another person to serve in this capacity.~~  
60 ~~The appeal shall be taken upon a written notice and a deposit of \$25.00 to~~  
61 ~~the director of finance.~~ The hearing shall be held within ten days of the  
62 notice of appeal unless the hearing officer continues the hearing upon  
63 request of any party for good cause shown. ~~and the~~ The administrative  
64 hearing officer shall issue a decision to sustain, modify, or withdraw a  
65 denial, suspension, or revocation act upon the appeal within 15 days of  
66 the hearing.

67  
68 (b) The procedure to be followed in appeals is that of RSMo 536.010 et seq.

69  
70 Section 3 – Chapter 94 – ‘Solid Waste,’ Article II. – ‘Disposal Areas,’ Sec. 94-41.  
71 – ‘Penalty for violation of article,’ subsection (5) ‘Civil penalties’ is hereby amended as  
72 follows:

73  
74 Sec. 94-41. - Penalty for violation of article.

75  
76 (5) *Civil penalties.* Any person who continues to violate the provisions of this  
77 article after notice of the violation and failure to correct the violation within  
78 the time specified in the notice shall be subject to a civil penalty in the  
79 amount of up to \$1,000.00 per day for each and every day that the

80 violation continues thereafter which penalty may be imposed by the  
81 municipal court as part of prosecution or by a hearing officer as part of an  
82 administrative proceeding to abate a violation of this article.  
83

84 Section 4 – Savings Clause. Nothing in this Ordinance shall be construed to  
85 affect any suit or proceeding now pending in any court or any rights acquired or liability  
86 incurred nor any cause or cause of action occurred or existing, under any act or  
87 ordinance repealed hereby. Nor shall any right or remedy of any character be lost,  
88 impaired, or affected by this Ordinance.  
89

90 Section 5 – This Ordinance shall be in full force and effect from and after  
91 passage.  
92

93 Passed at meeting: \_\_\_\_\_  
94

95  
96 \_\_\_\_\_  
97 Mayor  
98

99 Attest: \_\_\_\_\_, City Clerk  
100

101  
102 Filed as Ordinance: \_\_\_\_\_  
103

104 Approved as to form: Rhonda Lewsader, Assistant City Attorney  
105

106  
107 Approved for Council action: [Signature], City Manager  
108

**EXPLANATION TO COUNCIL BILL 2018- 049**

FILED: 02-06-18

ORIGINATING DEPARTMENT: Law

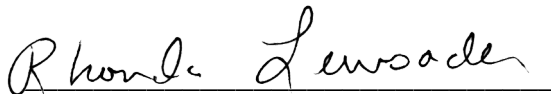
PURPOSE: To amend Springfield City Code, Chapter 36 – ‘Land Development Code,’ Article X. – ‘Uniform Enforcement Procedures,’ Division 1. – ‘Administrative Enforcement,’ Sec. 36-1002. – ‘Definitions’; Chapter 70 – ‘Licenses, Permits and Miscellaneous Business Regulations,’ Article VI. – ‘Locksmiths,’ Sec. 70-300. – ‘Appeals’; and Chapter 94 – ‘Solid Waste,’ Article II. – ‘Disposal Areas,’ Sec. 94-41. – ‘Penalty for violation of article;’ for the purpose of clarifying and harmonizing certain administrative hearing procedures.

BACKGROUND: Missouri state law prohibits a municipal judge from conducting an administrative hearing. However, three Springfield City provisions include language indicating a municipal judge may be an administrative hearing officer. Springfield City Code Section 36-1002 includes a municipal judge as a person who may be designated as an administrative hearing officer. Springfield City Code Section 70-300 states the administrative hearing officer hearing a locksmith license appeal “shall be the judge of the municipal court.” Springfield City Code Section 94-41 states a penalty may be imposed by the municipal court as part of an administrative hearing. These three sections should be revised to remove ambiguity that a municipal judge may act as an administrative hearing officer.

In addition, Springfield City Code Section 70-300 sets out procedures for appealing a denial, revocation, or suspension of a locksmith’s license which are not consistent with the appeals procedure for other business licenses. This Ordinance revises Section 70-300 to make the procedures for locksmith license appeals consistent with the appeals procedure for other business licenses.

Submitted by:

Approved by:

  
\_\_\_\_\_  
Rhonda Lewsader  
Assistant City Attorney

  
\_\_\_\_\_  
Greg Burris, City Manager