

## **BILL NO. 17-156**

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AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, GENERAL PROVISIONS ENACTING TWO NEW SECTIONS, SECTION 1-14, ENFORCEMENT; ATTORNEY'S FEES AND SECTION 1-15, VIOLATION; REMEDIES; UNAUTHORIZED HOLDOVER TO PROVIDE FOR THE RECOVERY OF ATTORNEYS' FEES AND COSTS IN ALL ENFORCEMENT ACTIONS BROUGHT BY THE CITY AND FURTHER PROVIDE FOR REMEDIES IN THE EVENT OF A HOLDOVER TENANT OR USER OF CITY FACILITIES.

WHEREAS, the City is authorized to protect the taxpayer and public funds from incurring expenses such as attorneys' fees and costs resulting from enforcement against violators of laws, contracts, or other obligations to the City including holdover use of City property, and the City Council desires to further amend the Code to provide for such protection.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, AS FOLLOWS:

SECTION 1. That Chapter 1, General Provisions, of the Code is hereby amended by enacting two new Sections dealing with enforcement and remedies available to the City which new Sections shall read as follows:

**Sec. 1-14. Enforcement; Attorneys' Fees.**

The City shall be entitled to enforce any provision of this Code through all remedies lawfully available, and any person determined to have violated the terms of this Code shall further be liable to pay the City's costs and attorneys' fees in enforcing such Code provisions. Additionally, any user of City services, rights-of-way or other City facilities or property, shall, as a condition of such use or continued use, to the full extent permissible by law, be liable to pay the City's costs and attorneys' fees incurred in enforcing any lawful requirement applicable to such use, whether arising in contract, statute, ordinance, or otherwise.

**Sec. 1-15. Violation; Remedies; Unauthorized Holdover.**

Any person who fails to hold and maintain a current and valid agreement with the City to use the City's land or facilities has no right to holdover and shall be subject to the provisions and City remedies of this subsection in addition to all other remedies and penalties as may otherwise exist in applicable law. Any claimed holdover right shall be deemed void and terminated upon expiration of a valid use agreement unless the City has affirmatively in writing authorized the holdover, or as otherwise may be required by law. Where an agreement, lease, or other agreement for use of public land or facilities expires, and in addition to any penalties or other requirements therein, the licensee during any period without a valid agreement shall, during any period of unauthorized use: (1) indemnify the City from any liability arising from the use, (2) pay any damages and costs of the City from such use, including attorneys' fees incurred in enforcing this ordinance, and (3) make payment of compensation in the amount of two times the monthly rent of the last expired agreement, if a holdover, and two times the market rental value reasonably determined by the City, if no prior agreement, until a valid agreement is executed with the City or the attachments and/or use is fully removed, the property

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restored and all obligations to the City satisfied. Unless otherwise provided in an unexpired agreement, Licensee shall also be responsible for interest on all amounts owed and at a rate of one and one-half percent per month. Nothing in these provisions, remedies or compensation requirements, or acceptance or enforcement thereof by the City, shall be deemed to accept or authorize any use of public property without a required agreement, or after the expiration of such agreement, or otherwise in violation of applicable requirements.

SECTION 2. If any one or more of the terms, provisions or conditions of this ordinance shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, none of the remaining terms, provisions or conditions of this ordinance shall be affected thereby and each provision of this ordinance shall be valid and enforceable to the fullest extent permitted by law.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of passage and approval by the Mayor of Lee's Summit.

PASSED by the City Council of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Denise R. Chisum*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Mayor *Randall L. Rhoads*

ATTEST:

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City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

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City Attorney *Brian W. Head*