

Legislation Text

File #: BILL NO. 17-157, **Version:** 1

AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY AMENDING SECTION 1-2, DEFINITIONS AND RULES OF CONSTRUCTION, TO PROVIDE THAT THE INTERPRETATION AND ENFORCEMENT OF ORDINANCES ARE TO BE COMPLIANT WITH CHANGES IN FEDERAL OR STATE LAW. (F&BC 7-10-17)

Issue/Request:

To recommend adoption of AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY AMENDING SECTION 1-2, DEFINITIONS AND RULES OF CONSTRUCTION, TO PROVIDE THAT THE INTERPRETATION AND ENFORCEMENT OF ORDINANCES ARE TO BE COMPLIANT WITH CHANGES IN FEDERAL OR STATE LAW

Key Issue:

To address the need to update the Code for enforcement actions to bring it into compliance with state and federal law as those laws are changed in a proactive way to preserve the Code's validity and the ability of the City to act expeditiously when necessary.

Proposed City Council Motion:

FIRST MOTION: I move for second reading of AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY AMENDING SECTION 1-2, DEFINITIONS AND RULES OF CONSTRUCTION, TO PROVIDE THAT THE INTERPRETATION AND ENFORCEMENT OF ORDINANCES ARE TO BE COMPLIANT WITH CHANGES IN FEDERAL OR STATE LAW.

SECOND MOTION: I move for adoption of AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY AMENDING SECTION 1-2, DEFINITIONS AND RULES OF CONSTRUCTION, TO PROVIDE THAT THE INTERPRETATION AND ENFORCEMENT OF ORDINANCES ARE TO BE COMPLIANT WITH CHANGES IN FEDERAL OR STATE LAW.

Background:

The City has utilized outside Counsel on various enforcement actions. As a part of the representation outside Counsel has called the Law Department's attention to some best practices other cities are using such as adopting a "self-preemption" provision to make certain the Code is in compliance with federal and state law changes. Congress and the General Assembly, as well as Courts, adopt changes or interpret laws in a way that may change the City's Code or limit City authority to act in certain circumstances. An example of this would be changing requirements for mailing notices of violations. In addition as a Charter City, Lee's Summit may enact Codes without specific authority in state statutes, but must still comply with the test of validity of any Code sections that the City not allow what State law prohibits, or prohibit what State law allows. Having a provision like the one proposed in the Code protects to the greatest extent possible what the City may enact and also allows the City enforcement officials to immediately change their actions to match any new requirement. By having in place a provision expressing the desire and intent that all City Codes should be interpreted to be in compliance with changes allows a Court or regulatory body to apply Code provisions as if already amended to comply with federal and State law.

Presenter: Nancy K. Yendes, Chief Counsel, Infrastructure and Planning

Recommendation: The Law Department recommends adoption of the proposed Ordinance.

Committee Recommendation: A motion was made by Alternate DeMoro, seconded by Vice Chair Edson that this Ordinance be recommended for approval to the City Council - Regular Session, due back on 7/27/2017. The motion carried by unanimous vote.