

## **REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT**

**JANUARY 7, 2016**

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee and City Council its comments and recommendations on:

### **ORDINANCE 2015-836**

AN ORDINANCE AMENDING CHAPTER 656 (ZONING CODE), ORDINANCE CODE; AMENDING SECTION 656.110 (ENFORCEMENT), ORDINANCE CODE, TO AMEND ENFORCEMENT AUTHORITY FROM THE BUILDING INSPECTION DIVISION TO THE MUNICIPAL CODE COMPLIANCE DIVISION; AMENDING SECTION 656.162 (PENALTY FOR FAILURE TO OBTAIN A CERTIFICATE OF USE), ORDINANCE CODE, TO AMEND ENFORCEMENT AUTHORITY FROM THE BUILDING INSPECTION DIVISION TO THE MUNICIPAL CODE COMPLIANCE DIVISION AND TO CLARIFY THAT THE CHIEF OF THE BUILDING INSPECTION DIVISION HAS AUTHORITY TO TERMINATE ELECTRICITY UNDER SOME CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE.

#### **I. GENERAL INFORMATION**

This bill moves the authority to enforce the Certificate of Use process from the Building Inspection Division to the Municipal Code Compliance Division. The bill also clarifies that the Building Inspection Division has the authority to issue cease and desist orders for illegal uses if said uses are determined to endanger the public health, safety, and welfare.

#### **II. EVALUATION**

##### *A. The need and justification for the change*

This bill will give the Municipal Code Compliance Division the authority to enforce the Certificate of Use process. Municipal Code Compliance Division already enforces other aspects of the Zoning Code, so this change will align the enforcement of the Certificate of Use process with the enforcement of other aspects of the Zoning Code.

##### *B. Background*

2014-724-E was enacted on December 9, 2014 to enhance the Certificate of Use process. However, the bill also tasked the Building Inspection Division with Certificate of Use

enforcement. The Building Inspection Division is self-funded from fees collected from building permits and can only fund activities related to building permits. The Certificate of Use process is part of the Zoning Code. The Municipal Code Compliance Division enforces the Zoning Code and is the appropriate agency to enforce violations of the Certificate of Use process.

- C. *The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.*

The legislation will further the Goals, Objectives and Policies of the 2030 Comprehensive Plan and is in harmony with the spirit and intent of the Zoning Code as it will reduce blighting influences and ensure that the public health safety and welfare is protected.

- D. *Consistency with the Comprehensive Plan.*

Ordinance 2015-836 is consistent with the Comprehensive Plan in that it promotes the goals, objectives and policies of the 2030 Comprehensive Plan, including the following:

F.L.U.E. Policy 3.1.2 The City shall eliminate incompatible land uses or blighting influences from potentially stable, viable residential neighborhoods through active code enforcement and other regulatory measures.

### **III. RECOMMENDATION**

Based upon examination of the proposed ordinance with respect to the goals, objectives and policies of the 2030 Comprehensive Plan, and the intent of the Zoning Code, the Planning and Development Department finds that Ordinance 2015-836 is consistent with the Comprehensive Plan and furthers the intent of the Zoning Code as it would accomplish a result that is in the public interest. Therefore, it is the recommendation of the Planning and Development Department that Ordinance 2015-836 be **APPROVED**.

**CITY COUNCIL RESEARCH DIVISION**  
**LEGISLATIVE SUMMARY**



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**Bill Type and Number:** Ordinance 2015-836

**Sponsor:** Council President at the request of the Mayor

**Date of Introduction:** December 8, 2015

**Committee(s) of Reference:** LUZ

**Date of Analysis:** December 4, 2015

**Type of Action:** Amending *Ordinance Code* Chapter 656

**Bill Summary:** This bill amends Chapter 656 (Zoning Code), Part 1 (General Provisions), Subpart B (Administration), Section 656.110 (Enforcement); and Part 1 (General Provisions), Subpart E (Certificates of Use), Section 656.162 (Penalty for failure to obtain a certificate of use), *Ordinance Code*.

**Background Information:** In Section 656.110 and Section 656.162, the Municipal Code Compliance Division (MCCD) acquires enforcement authority as issued to the Building Inspection Division as it pertains to certificate of use.

An "alleged violator" shall be given thirty (30) days from receipt of notice to correct a violation and submit a completed application for certificate of use (COU). If violations have not been corrected nor a COU application submitted, MCCD has the authority to issue a cease and desist order which could be accompanied with an order to terminate electrical power. Section 656.162 will provide the Chief of the Building Inspection Division the authority to terminate electricity under some circumstances.

**Policy Impact Area:** Planning & Development Department; Regulatory Compliance Department

**Fiscal Impact:** Undetermined

**Analyst:** Mitchell

1 Introduced by the Council President at the request of the Mayor:

2  
3 **ORDINANCE 2015-836**

4 AN ORDINANCE AMENDING CHAPTER 656 (ZONING  
5 CODE), *ORDINANCE CODE*; AMENDING SECTION  
6 656.110 (ENFORCEMENT), *ORDINANCE CODE*, TO  
7 AMEND ENFORCEMENT AUTHORITY FROM THE BUILDING  
8 INSPECTION DIVISION TO THE MUNICIPAL CODE  
9 COMPLIANCE DIVISION; AMENDING SECTION 656.162  
10 (PENALTY FOR FAILURE TO OBTAIN A CERTIFICATE  
11 OF USE), *ORDINANCE CODE*, TO AMEND ENFORCEMENT  
12 AUTHORITY FROM THE BUILDING INSPECTION  
13 DIVISION TO THE MUNICIPAL CODE COMPLIANCE  
14 DIVISION AND TO CLARIFY THAT THE CHIEF OF THE  
15 BUILDING INSPECTION DIVISION HAS AUTHORITY TO  
16 TERMINATE ELECTRICITY UNDER SOME  
17 CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE.

18 **BE IT ORDAINED** by the Council of the City of Jacksonville:

19 **Section 1. Amending Section 656.110 (Enforcement),**  
20 **Ordinance Code.** Section 656.110, *Ordinance Code*, is hereby amended  
21 to read as follows:

22 **CHAPTER 656. ZONING CODE**

23 **PART I. GENERAL PROVISIONS**

24 \* \* \*

25 **SUBPART B. ADMINISTRATION**

26 \* \* \*

27 **Sec. 656.110. Enforcement.**

28 The provisions of this Zoning Code shall be enforced as  
29 follows:

- 30 (a) By the Director, through the Chief of Current Planning  
31 Division, or his designee, or by the Chief of the Municipal

1 Code Compliance Division; provided however, that Parts 12,  
2 and 13, ~~and Subpart E~~ of this Chapter shall be enforced  
3 through the Chief of the Building Inspection Division, or  
4 his designee.

5 \* \* \*

6 **Section 2. Amending Section 656.162, Ordinance Code.**

7 Section 656.162 (Penalty for failure to obtain a certificate of  
8 use) *Ordinance Code*, is amended to read as follows:

9 **CHAPTER 656. ZONING CODE**

10 **PART 1. GENERAL PROVISIONS**

11 \* \* \*

12 **SUBPART E. CERTIFICATES OF USE**

13 \* \* \*

14 **Sec. 656.162. Penalty for failure to obtain a certificate of**  
15 **use.**

16 (a) In addition to the penalties provided for in Section  
17 656.111, *Ordinance Code*, and Section 656.161 above, whenever the  
18 ~~Building Inspection Division~~ Municipal Code Compliance Division  
19 determines that a person or entity is operating a business without  
20 a certificate of use when one is required under this subpart, the  
21 Chief of the ~~Building Inspection Division~~ Municipal Code Compliance  
22 Division may issue a notice of violation as provided herein to the  
23 owner of the property (and the tenant, renter or lessee if  
24 applicable), hereinafter referred to as the "alleged violator",  
25 stating that they have thirty (30) days from receipt of the notice  
26 to correct the violation and submit a completed application for  
27 certificate of use, as determined by the Planning and Development  
28 Department. The notice of violation shall also state the  
29 ramifications for failing to comply with the notice of violation,  
30 which may result in a cease and desist order from the ~~Building~~  
31 ~~Inspection Division~~ Municipal Code Compliance Division, which may be

1 accompanied by an order to terminate electrical power from the  
2 Building Inspection Division if the continuation of the illegal use  
3 will endanger the public health, safety or welfare. The notice  
4 shall be mailed by certified or express mail or hand delivered to  
5 each alleged violator as shown by the public records of Duval  
6 County and shall also be mailed to any owner's agent if such  
7 agent's name and address is on file in the Property Appraiser's  
8 Office as shown on the latest tax roll.

9 (b) If after the thirty (30) days from receipt of the notice  
10 of violation, the alleged violator has not complied with the notice  
11 of violation and has not submitted a completed application for  
12 certificate of use, the Chief of the ~~Building Inspection~~  
13 ~~Division~~ Municipal Code Compliance Division shall issue a cease and  
14 desist order to cease business operations, which may be accompanied  
15 by an order to terminate electrical power from the Building  
16 Inspection Division if the continuation of the illegal use will  
17 endanger the public health, safety or welfare, until a certificate  
18 of use is obtained. The cease and desist order shall also include  
19 a statement of the particular code violation(s) and detail the  
20 appeal mechanisms available to the alleged violator.

21 \* \* \*

22 **Section 3. Effective Date.** This ordinance shall become  
23 effective upon signature by the Mayor or upon becoming effective  
24 without the Mayor's signature.

25  
26 Form Approved:

27  
28 /s/ Jason R. Teal

29 Office of General Counsel

30 Legislation prepared by: Jason R. Teal

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