

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 2015-867

AN ORDINANCE REPEALING CHAPTER 656 (ZONING CODE), PART 4 (SUPPLEMENTARY REGULATIONS), SUBPART B (MISCELLANEOUS REGULATIONS), SECTION 656.421 (DONATION COLLECTION BINS PROHIBITED), ORDINANCE CODE, AND REPLACING IT WITH A NEW CHAPTER 656 (ZONING CODE), PART 4 (SUPPLEMENTARY REGULATIONS), SUBPART B (MISCELLANEOUS REGULATIONS), SECTION 656.421 (DONATION COLLECTION BINS), ORDINANCE CODE TO PROVIDE REGULATIONS CONCERNING THE PLACEMENT AND USE OF DONATION COLLECTION BINS WITHIN DUVAL COUNTY; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

This bill repeals Chapter 656 (Zoning Code), Part 4 (Supplementary Regulations), Subpart B (Miscellaneous Regulations), Section 656.421 (Donation Collection Bins Prohibited), Ordinance Code in its entirety; and replaces it with a new Chapter 656 (Zoning Code), Part 4 (Supplementary Regulations), Subpart B (Miscellaneous Regulations), Section 656.421 (Donation Collection Bins), to provide regulations concerning the placement and use of donation collection bins within Duval County.

The City Council passed Ordinance 2015-0327-E on May 12, 2015. The legislation prohibited the placement of donation collection bins, defined as, any stationary or free-standing container, receptacle or similar device located outdoors on any property and in any zoning category within Duval County for the solicitation and collection of donated items. Existing donation collection bins were to be removed within sixty (60) days of the effective date. Failure to comply would result in a civil infraction and removal of donation collection bin by the City of Jacksonville; and all costs associated would be the responsibility of the owner.

Go Green Charity Recyclers filed a lawsuit claiming violation of equal protection and free speech. The City and Go Green attorneys have been in settlement discussions. The judge issued a December 15th deadline for a status report which will include notification that new legislation

has been filed with City Council. The bill will follow normal committee cycle rotation to allow Council members an opportunity to review and/or amend.

II. EVALUATION

A. *The need and justification for the change*

The proposed legislation is needed in response to a lawsuit between Go Green Charity Recyclers and the City of Jacksonville. This legislation will provide regulations for the placement and maintenance of donation bins, thereby promoting the public health, safety, and welfare.

B. *Background*

A summary is provided under the General Information section of this report.

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 2015-867 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 2015-867 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 2015-867 be **APPROVED**.

1 Introduced by the Council President at the request of the General
2 Counsel:

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5 **ORDINANCE 2015-867**

6 AN ORDINANCE REPEALING CHAPTER 656 (ZONING
7 CODE), PART 4 (SUPPLEMENTARY REGULATIONS),
8 SUBPART B (MISCELLANEOUS REGULATIONS), SECTION
9 656.421 (DONATION COLLECTION BINS PROHIBITED),
10 ORDINANCE CODE, AND REPLACING IT WITH A NEW
11 CHAPTER 656 (ZONING CODE), PART 4
12 (SUPPLEMENTARY REGULATIONS), SUBPART B
13 (MISCELLANEOUS REGULATIONS), SECTION 656.421
14 (DONATION COLLECTION BINS), ORDINANCE CODE TO
15 PROVIDE REGULATIONS CONCERNING THE PLACEMENT
16 AND USE OF DONATION COLLECTION BINS WITHIN
17 DUVAL COUNTY; PROVIDING AN EFFECTIVE DATE.
18

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

20 **Section 1. Repealing Chapter 656 (Zoning Code), Subpart B**
21 **(Miscellaneous Regulations), Part 4 (Supplementary Regulations),**
22 **Section 656.421 (Donation Collection Bins Prohibited), Ordinance**
23 **Code in its entirety.** Section 656.421 (Donation Collection Bins
24 Prohibited), Subpart B (Miscellaneous Regulations), Chapter 656
25 (Zoning Code), Ordinance Code, a copy of which is **attached hereto**
26 **as Exhibit 1**, is hereby repealed in its entirety.

27 **Section 2. Creating a new Chapter 656 (Zoning Code),**
28 **Subpart B (Miscellaneous Regulations), Part 4 (Supplementary**
29 **Regulations), Section 656.421 (Donation Collection Bins), Ordinance**
30 **Code.** Chapter 656 (Zoning Code), Subpart B (Miscellaneous
31 Regulations), Section 656.421 (Donation Collection Bins), Ordinance

1 Code is hereby created to read as follows:

2 Chapter 656. Zoning Code

3 * * *

4 Part 4. Supplementary Regulations.

5 * * *

6 Subpart B. Miscellaneous Regulations.

7 * * *

8 Sec. 656.421. Donation Collection Bins.

9 (a) *Intent.* The intent of this section is to regulate the
10 placement and maintenance of donation bins to promote the
11 health, safety and general welfare of the citizens of
12 Jacksonville.

13 (b) *Definitions.* As used in this section, the following
14 words or phrases shall have the meaning ascribed to them
15 below unless the context clearly indicates otherwise:

16 *Charitable organization* shall have the same meaning as
17 listed in F.S. section 496.404, as may be amended.

18 *Donation bin* shall mean any unattended stationary or
19 free-standing container, receptacle or similar device
20 that is operated by a charitable organization and located
21 outdoors on any property in the City and is used for the
22 collection of donated items, such as clothing, books,
23 shoes or other personal property and not including cash
24 money or its equivalent. This term does not include any
25 of the following: (1) a bin used for the solicitation and
26 collection of donated items associated with a special
27 event lasting no longer than seventy-two (72) hours,
28 provided such bin is removed within forty-eight (48)
29 hours after the conclusion of the special event; (2) a
30 bin used to solicit and collect recyclable materials,
31 pursuant to the City's recycling program set forth in

1 Chapter 380, Part 5, Ordinance Code.

2 *Property owner* shall mean the owner of fee simple title
3 of record for any property upon which a donation bin is
4 located or is proposed to be located.

5 *Solicitation* shall have the same meaning as listed in
6 F.S. section 496.404, as may be amended.

7 (c) *Certificate of Use (COU) required.* No property owner or
8 its agent shall allow placement of any donation bin on
9 private property without first obtaining a COU. A COU
10 application, in a format that is acceptable to the
11 Department, may be made in either the name of the
12 property owner, its agent, or the owner of the donation
13 bin and shall include, in addition to the required
14 information listed in Chapter 656, Part 1, Subpart E,
15 Ordinance Code: (1) a site map, sketch or drawing
16 depicting the location of the bin; (2) a drawing or
17 manufacturer's specification of the proposed bin; (3)
18 written consent of the property owner, or its agent, to
19 place the bin on the property; and (4) written
20 authorization from a charitable organization to display
21 affiliation with the charitable organization. Since
22 donation bins are transient in nature and may be easily
23 moved onto and around property, a separate COU shall be
24 required for each donation bin placed on private
25 property. A property owner or agent where any donation
26 bin exists as of the effective date of this legislation
27 shall have until March 31, 2016 to obtain or cause to be
28 obtained COUs for each donation bin or to completely
29 remove the donation bins.

30 (d) *Donation bin placement restrictions.* No donation bin
31 shall be allowed to be placed, remain, or be moved on any

1 property unless such placement complies with all of the
2 following:

3 (i) No donation bin shall be allowed on any
4 residentially zoned property, except for multi-family
5 apartment complexes;

6 (ii) No donation bin shall be placed within any required
7 parking space(s), drive aisles, required landscaped
8 areas, medians, sight triangles, pedestrian circulation
9 areas or within any required setback;

10 (iii) All donation bins shall be securely anchored;

11 (iv) No donation bin shall be placed on any unoccupied,
12 vacant or undeveloped parcel;

13 (v) Donation bins must be of the type that are enclosed
14 by use of a one-way receiving door that functions so as
15 to prevent access to the bin's contents by anyone other
16 than those responsible for retrieval of the contents.

17 (vi) All donation bins shall be located in areas with
18 sufficient lighting; and

19 (vii) No donation bin shall be placed in any location that
20 would create a safety hazard, such as (but not limited
21 to) within fifty (50) feet of fuel, gas or flammable
22 liquid pumps, in a place that interferes with a public
23 transportation or school bus stop, or in a place that
24 interferes with access to a fire hydrant or emergency
25 equipment.

26 (e) *Donation bin operation standards.* Donation bins shall be
27 maintained in good condition and appearance with no
28 structural damage, holes or visible rust and shall remain
29 free of graffiti. The area surrounding the donation bin
30 shall remain free of junk, garbage, trash, debris, refuse
31 materials and discarded items. All donated items shall

1 be placed within the donation bin and shall not be
2 allowed to accumulate outside the bin. Donation bins
3 shall be regularly inspected to ensure continued
4 compliance with these requirements and shall be emptied
5 of all contents on a weekly basis.

6 (f) *Enforcement.* All enforcement alternatives and penalties
7 authorized in this Chapter are available to enforce
8 violations of this section. The property owner, its
9 agent and the donation bin owner and/or operator shall be
10 individually and jointly responsible for compliance with
11 the requirements of this section, which may include
12 abating and removing any condition constituting a
13 violation, an action for civil penalties, injunctive
14 relief, recovery of attorney's fees and costs and any
15 other relief authorized by law. Nothing shall prevent
16 the City from simultaneously or individually taking
17 enforcement action against the property owner, its agent,
18 the donation bin owner and/or operator, the beneficiary
19 of the donation bin's operation or any other responsible
20 party.

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

24 Form Approved:

25
26 /s/ Jason R. Teal

27 Office of General Counsel

28 Legislation Prepared By: Jason R. Teal

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