

City of Jacksonville, Florida

Lenny Curry, Mayor

City Hall at St. James
117 W. Duval St.
Jacksonville, FL 32202
(904) 630-CITY
www.coj.net

November 3, 2022

The Honorable Terrance Freeman, President
The Honorable Kevin Carrico, LUZ Chair
And Members of the City Council
City Hall
117 West Duval Street
Jacksonville, Florida 32202

**RE: Planning Commission Advisory Report
Ordinance No.: 2022-766**

Dear Honorable Council President Freeman, Honorable Council Member and LUZ Chairperson Carrico and Honorable Members of the City Council:

Pursuant to the provisions of Section 30.204 and Section 656.129, *Ordinance Code*, the Planning Commission respectfully offers this report for consideration by the Land Use and Zoning Committee.

Planning and Development Department Recommendation: **Approve**

Planning Commission Recommendation: **Approve**

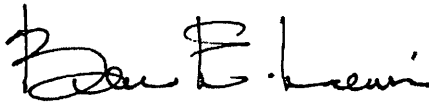
Planning Commission Commentary: There were no speakers in opposition. The Commissioners felt the COU process needs significant retooling or be abolished.

Planning Commission Vote: 7-0

Alex Moldovan, Chair	Aye
Ian Brown, Vice Chair	Aye
Jason Porter, Secretary	Aye
Marshall Adkison	Aye
Daniel Blanchard	Aye
Jordan Elsbury	Aye
Joshua Garrison	Absent
David Hacker	Aye

If you have any questions or concerns, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Bruce E. Lewis". The signature is written in a cursive style with a large initial "B" and "L".

Bruce E. Lewis
City Planner Supervisor – Current Planning Division
City of Jacksonville - Planning and Development Department
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REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

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 2022-766

AN ORDINANCE PERTAINING TO CERTIFICATES OF USE; AMENDING SUBPART E (CERTIFICATES OF USE), PART 1 (GENERAL PROVISIONS), CHAPTER 656 (ZONING CODE), ORDINANCE CODE, TO REVISE PROVISIONS PERTAINING TO CERTIFICATES OF USE; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

The bill amends Chapter 656 (Zoning Code), specifically the Certificate of Use process, to streamline the issuance procedure and eliminate the requirement for a new Certificate of Use to be issued if a business changes name or ownership but otherwise continues operating in the same place and manner as before the change.

II. EVALUATION

A. The need and justification for the change

This change will allow commercial businesses with no change of activity or increase of size to change name and/or ownership without the need for a new Certificate of Use.

B. 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 Comprehensive Plan is silent with regards to the Certificate of Use process.

III. RECOMMENDATION

The Planning and Development Department recommends that **Ordinance 2022-766** be **approved**.

1 Introduced by Council Member Becton:
2
3

4 **ORDINANCE 2022-766**

5 AN ORDINANCE PERTAINING TO CERTIFICATES OF
6 USE; AMENDING SUBPART E (CERTIFICATES OF
7 USE), PART 1 (GENERAL PROVISIONS), CHAPTER
8 656 (ZONING CODE), *ORDINANCE CODE*, TO REVISE
9 PROVISIONS PERTAINING TO CERTIFICATES OF
10 USE; PROVIDING AN EFFECTIVE DATE.
11

12 **WHEREAS**, the City desires to reduce the burden on owners,
13 occupants, and managers of commercial property that is required
14 to comply with the City's current procedures for certificates of
15 use; now therefore

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

17 **Section 1. Amending Chapter 656 (Zoning Code),**
18 **Ordinance Code.** Chapter 656 (Zoning Code), *Ordinance Code*, is
19 hereby amended to read as follows:

20 **CHAPTER 656. ZONING CODE**

21 **PART 1. GENERAL PROVISIONS**

22 * * *

23 **SUBPART E. CERTIFICATES OF USE**

24 * * *

25 **Sec. 656.151. - Certificates of Use.**

26 (a) No structure or demised premises, as defined in Section
27 656.1601, other than a single family residence or duplex,
28 shall be used or any existing use enlarged, or any new use
29 made of any land, ~~body of water~~, or structure, without the
30 owner, or tenant if applicable, first obtaining a certificate
31 of use from the Department. Said certificate of use shall be

1 required for each individual business and each multi-family
2 building located within the City.

3 Notwithstanding any ordinance to the contrary, and
4 notwithstanding any prior legal status of any multi-family
5 residence and business, any new multi-family residence or new
6 business, or any changes in use, ~~name, ownership,~~ expansion
7 of square footage occupied, or the inclusion of additional
8 uses after May 29, 2006, will require a certificate of use.

9 New certificates of use shall not be required in connection
10 with changes in name or ownership provided that the use is
11 the same before and after such change in name or ownership.

12 This provision does not apply when the change in name or
13 ownership occurs with alterations or changes to the use of
14 the property. In addition, this provision does not apply to
15 businesses that are regulated by state law and required to
16 obtain licenses in the name of the licenseholder. In the case
17 of name changes, the existing certificate of use shall be
18 amended to reflect the new name of the business. In the case
19 of ownership changes, the existing certificate of use shall
20 be transferred to the new owner.

21 (b) The issuance of a certificate of use shall not require a
22 structure or demised premises to be retrofitted or brought
23 into compliance with the current building code unless
24 required by state law or Subpart C, Part 12, Chapter 656,
25 Ordinance Code, or there is substantial alteration within
26 the demised premises or substantial alteration, including
27 new construction of the existing structure. The City shall
28 have the right to periodically inspect a structure or
29 demised premises at any reasonable time to ensure the
30 existence of a current and valid certificate of use, and to
31 ensure compliance with applicable zoning regulations,

1 Florida Building Code, Florida Fire Prevention Code, solid
2 waste regulations, and all applicable local and state
3 regulations and other terms under which a certificate of
4 use was issued.

5 (c) A certificate of use shall cover all uses contained within
6 a structure or a demised premises permitted on the land.
7 All uses ~~within the structure or on the land~~ that are
8 consistent with those permitted in the certificate of use
9 shall not require separate certificates of use. A new
10 certificate of use will be required for all uses
11 inconsistent with the uses permitted under a certificate of
12 use.

13 (d) No certificate of use shall be utilized in a manner
14 contrary to the regulations contained within the Ordinance
15 Code.

16 (e) It shall be the duty of all officers and inspectors of the
17 Building Inspection Division, the Municipal Code Compliance
18 Division, Fire Prevention Division, Planning and
19 Development Department, Solid Waste Division, and law
20 enforcement officers, to report to the Director any
21 apparent violation of this Subpart.

22 **Sec. 656.152. Certificates of use application and fee.**

23 (a) An application for a certificate of use shall be filed with
24 the Department. The Director is authorized and directed to
25 establish a certificate of use application, which shall
26 contain the following information:

27 * * *

28 (3) The previous use of the structure or demised premises,
29 if known;

30 (4) The proposed use of the structure or demised premises;

31 (5) Occupant Seating capacity of the structure or demised

1 premises; and

2 (6) Square footage of the ~~use or~~ structure or demised
3 premises.

4 (7) ~~Any Additional information deemed necessary by the~~
5 ~~Director.~~

6 (b) ~~Except for those certificates of use issued solely for a~~
7 ~~change in name and/or ownership, T~~he fee for a certificate
8 of use is as found in www.coj.net/fees. An applicant for a
9 certificate of use shall pay the fee to the Department upon
10 receipt of the certificate of use. ~~The fee for~~
11 ~~certificates of use issued for a change in name and/or~~
12 ~~ownership is as found in www.coj.net/fees,~~ and subject to
13 the Annual Review of Fees provision found in Section
14 106.112, Ordinance Code.

15 **Sec. 656.153. - Certificate of use review.**

16 The Building Inspection Division shall review each
17 certificate of use application for any new uses, changes in use,
18 expansion of square footage or inclusion of new uses, for
19 compliance with the Florida Building Code, and Part 12 and Part
20 13 of Chapter 656, Ordinance Code. The Fire Prevention Division
21 shall review each certificate of use application for any new
22 uses, changes in use, expansion of square footage or inclusion
23 of new uses, for compliance with Chapter 633 of the Florida
24 Statutes and ~~Section~~ Chapter 420, Ordinance Code. The Planning
25 and Development Department shall review each certificate of use
26 application for any new uses, changes in use, expansion of
27 square footage or inclusion of new uses, for compliance with
28 Chapter 656, Ordinance Code. The Zoning Administrator shall
29 issue a certificate of use for any new uses, changes in use,
30 expansion of square footage or inclusion of new uses, upon a
31 positive recommendation from each department, however in the

1 event there is a question as to the legality of a use, the
2 Zoning Administrator may require inspections, affidavits and
3 such other information the Zoning Administrator may deem
4 appropriate or necessary to establish the legality of the use,
5 before a certificate of use will be issued. Promptly after
6 determining that additional inspections, affidavits and other
7 information is necessary, the Zoning Administrator shall provide
8 written notice to the applicant itemizing same. Such notice
9 shall include all requirements known by the Zoning Administrator
10 at the time of providing notice. If inspections of the structure
11 or demised premises are needed, they shall take place as quickly
12 as practicable such inspections or reviews shall occur within
13 ten business days and the City shall aspire to complete any
14 subsequent inspection required for additional information to
15 obtain a certificate of use approval within ten additional
16 business days, or as soon thereafter as practical.
17 Contemporaneous with the filing of an application for
18 certificate of use, the applicant shall provide a current fire
19 inspection report to the Zoning Administrator, if available. The
20 Zoning Administrator shall not issue a certificate of use for
21 any new use, change in use, expansion of square footage or
22 inclusion of new uses prior to final written approval (including
23 by electronic means) of the Building Inspection Division, Fire
24 Prevention Division, and Planning and Development Department as
25 to their relevant portion of review. ~~In addition, no conditional~~
26 ~~approval of a certificate of use shall be granted by the Zoning~~
27 ~~Administrator.~~ In addition, a conditional approval of a
28 certificate of use may be granted by the Zoning Administrator,
29 where state and local law allows, pending receipt of any
30 additional inspections, affidavits, and other necessary
31 information, if the Zoning Administrator has provided written

1 notice to the applicant itemizing same. Such conditional
2 approval shall be valid for a period not to exceed 90 days plus
3 any extension(s) granted by the Zoning Administrator, which
4 shall not be unreasonably withheld. Failure to permit inspection
5 of the premises shall be grounds for denial of an application
6 for a certificate of use or revocation of an existing
7 certificate of use.

8 **Sec. 656.154. - Annual renewal of certificate of use.**

9 Except for certificates of use required to be renewed
10 annually by the Ordinance Code, or by any zoning exception,
11 variance, waiver, or administrative deviation, certificates of
12 use shall remain valid for an unlimited time unless revoked for
13 cause. The certificate of use is only valid for the specific
14 ~~address, business name, corporate name, and type of business~~ for
15 which it was issued. A new certificate of use shall be required
16 for any changes in~~t~~ use, ~~name, ownership,~~ expansion of square
17 footage occupied, or the inclusion of additional uses, or for
18 name or ownership changes where state licensing requirements
19 apply.

20 **Sec. 656.155. - Exemptions.**

21 In addition~~l~~ to those uses identified in Section 656.151,
22 the following uses do not require certificates of use:

23 * * *

24 **Sec. 656.156. - Appellate procedure for denial of a certificate**
25 **of use.**

26 In the event the Zoning Administrator determines to deny
27 any application for a certificate of use, the Zoning
28 Administrator shall provide the applicant written notice of said
29 denial, along with the reasons for said denial and any written
30 documents pertaining to the denial. Said notice of denial shall
31 afford the applicant an opportunity to appear before the

1 ~~Certificate of Use Board~~ Building Codes Adjustment Board and is
2 subject to the procedures set forth in Chapter 56, Ordinance
3 Code. ~~by written appeal filed within 30 days of the denial so as~~
4 ~~to allow the applicant to present additional information or~~
5 ~~otherwise explain factors the applicant deems relevant. At said~~
6 ~~appeal the Certificate of Use Board shall notify the applicant~~
7 ~~of the Certificate of Use Board's final decision and shall~~
8 ~~confirm said decision in a final order prepared in writing~~
9 ~~within 30 days of the appeal. The final order of the Certificate~~
10 ~~of Use Board shall be a final action of the City and shall be~~
11 ~~effective as of date of issuance and an applicant shall~~
12 ~~thereafter have any remedies available at law.~~

13 **Sec. 656.157. - Revocation or suspension of a certificate of**
14 **use.**

15 * * *

16 (k) The certificate holder's premises have been found to
17 constitute a public nuisance pursuant to Sections 823.01,
18 823.05, 823.10, or 823.13, Florida Statutes; or Chapter 672
19 (Public Nuisance Abatement Board), Ordinance Code;

20 * * *

21 **Sec. 656.158. - Procedure for suspension or revocation; appeal**
22 **of suspension or revocation of a certificate of use.**

23 In the event the Director determines there are sufficient
24 grounds to suspend or revoke a certificate of use, the Director
25 shall provide the applicant written notice of said suspension or
26 revocation, along with the reasons for said suspension or
27 revocation and any written documents pertaining to the
28 suspension or revocation. Said notice of denial shall afford the
29 applicant an opportunity to appear before the ~~Certificate of Use~~
30 ~~Board~~ Building Codes Adjustment Board and is subject to the
31 procedures set forth in Chapter 56, Ordinance Code. ~~by written~~

1 ~~appeal filed within 30 days of the suspension or revocation so~~
2 ~~as to allow the applicant to present additional information or~~
3 ~~to otherwise refute the findings of the Director. At said~~
4 ~~appeal, the Certificate of Use Board shall notify the applicant~~
5 ~~of the Certificate of Use Board's final decision and shall~~
6 ~~confirm said decision in a final order prepared in writing~~
7 ~~within 30 days of the appeal. The final order of the Certificate~~
8 ~~of Use Board shall be a final action of the City and shall be~~
9 ~~effective as of date of issuance and an applicant shall~~
10 ~~thereafter have any remedies available at law.~~

11 * * *

12 **PART 16. DEFINITIONS**

13 **Sec. 656.1601. - Definitions.**

14 * * *

15 *Decibel (db)* is a unit for measuring the relative loudness
16 of sound or sound pressure equal approximately to the smallest
17 degree of difference of loudness or sound pressure ordinarily
18 detectable by the human ear, the range of which includes about
19 130 decibels on a scale beginning with one for the faintest
20 audible sound.

21 *Demised Premises* means the property or tenant space under
22 which a tenant holds a leasehold interest pursuant to a lease
23 agreement.

24 * * *

25 **Section 2. Effective Date.** This ordinance shall become
26 effective upon signature by the Mayor or upon becoming effective
27 without the Mayor's signature.

1 Form Approved:

2

3 /s/ Paige Johnston

4 Office of General Counsel

5 Legislation Prepared By: Paige H. Johnston

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