

**ORDINANCE NO. 2669**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING CHAPTER 66 "SOLID WASTE" OF THE CODE OF ORDINANCES OF THE CITY OF APOPKA, BY AMENDING ARTICLE II, DIVISION 1, SECTION 66-36 "DEFINITIONS;" SECTION 66-37 "AUTHORITY OF PUBLIC SERVICES DIRECTOR;" SECTION 66-40 "SPECIAL COLLECTION PROBLEMS;" SECTION 66-65 "PREPARATION OF MATERIALS FOR COLLECTION;" SECTION 66-66 "PLACEMENT OF MATERIALS FOR COLLECTION;" SECTION 66-68 "FEE SCHEDULE - RESIDENTIAL;" AND SECTION 66-90 "PREPARATION OF MATERIALS FOR COLLECTION;" AND; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR A BEAR MANAGEMENT AREA; PROVIDING FOR ENFORCEMENT AND FINES; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT, SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, the City of Apopka is authorized to protect the public health, safety, and welfare of its residents, and has the power and authority to enact regulations for valid government purposes that are not inconsistent with general or special law; and

**WHEREAS**, according to the Florida Fish and Wildlife Conservation Commission (FWC), black bears have recovered from population declines and are a conservation success story for Florida and the FWC; and

**WHEREAS**, a consequence of this conservation success is an increase in human-bear conflicts within urban area; and

**WHEREAS**, black bears are attracted to unsecured refuse at residences and businesses found in bear range areas; and

**WHEREAS**, the majority of human-bear conflicts within urban areas are associated with unsecured refuse, and some of those conflicts have resulted in injury to humans; and

**WHEREAS**, in 2017, Orange County reported the seventh highest number of human-bear conflicts in the State; and

**WHEREAS**, according to the FWC, the City of Apopka borders one of the most abundant black bear populations in the State; and

WHEREAS, the City Council has determined that the incidence of bears entering populated areas of the City of Apopka to forage for food in refuse containers, and from other sources, is increasing and has reached a level that poses a threat to the health, safety, and welfare of the citizens and visitors to the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA,** as follows:

SECTION I. That Chapter 66, Article II, of the Code of Ordinances is hereby amended in its entirety with the provisions stated below:

**ARTICLE II. MUNICIPAL REFUSE COLLECTION SERVICE**

**Section 66-36. Definitions.**

For the purpose of this Article the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

- (a) "Bear Management Area" means an area within the City of Apopka in which there is a high incidence rate of human-bear interactions recorded by the Florida Fish and Wildlife Conservation Commission (FWC), occurring at a level that poses a potential threat to the health, safety, and welfare to the citizens, employees and visitors of the City and is designated as such by the Director.
- (b) "Bear Resistant Household Garbage Container" means a City approved residential household garbage container with a locking mechanism that prevents access to the contents by bears.
- (c) "Secured Structure" means a structure in which refuse is stored in such a manner as to minimize the attraction of bears and to serve as a bear resistant barrier during the interim between refuse discard, collection and disposal. A screened enclosure does not qualify as a secured structure.

**Section 66-37. Authority of the Public Services Director.**

- (b) A Bear Management Program is hereby established, which provides for a container replacement program to reduce the human-bear interactions, which will be implemented within the City limits of Apopka, applying additional restrictions within the Bear Management Area as designated by the Public Services Director, following consultation with the Florida Fish and Wildlife Conservation Commission (FWC).

- (c) Within the Bear Management Area, responsible parties are required to comply with the following best management practices when the failure to do so creates, or would reasonably be expected to create, a lure or enticement for bears:
- a. Bird Feeders: Bird and hummingbird feeders are allowed, however, feeders must be suspended on a cable or other device so that they are inaccessible to bears, and the area below the feeders must be kept free from the accumulation of seed debris.
  - b. Pet Food: Pet food or food bowls may not be left out overnight or unattended, unless kept in a secured enclosed kennel with a roof. If possible, pets are to be fed indoors. Pet food must be stored in a secured structure or other means that prevents access by bears. A screened enclosure does not qualify as a secured structure.

#### **Section 66-40. Special Collection Problems.**

- (a) ~~Collection from location other than curbside. The Public Services Director or designee shall visit any residence to determine if curbside placement of City approved containers is impossible. A verification by a medical doctor that the resident is unable to physically place the containers may be required. Disabled Service. A resident certifies that all occupants of the residence over the age of 18 are physically incapable of placing the City approved garbage and recycling containers at the curb for collection may request pickup at an alternate location which is agreeable to the resident and the Public Services Director. Verification from a medical doctor must be included with the certification. This service is not available for yard trash or bulky pickups.~~
- (g) Non-Compliant Pick Up. For any violation of this Chapter regarding any pick up of solid waste or material referenced in this Chapter, including, but not limited to, early placement, mixing garbage with yard trash or recycling, unauthorized accumulation or scattering of solid waste or other material, the Pubic Services Director shall have the authority to assess an administrative charge for the actual cost of labor, vehicles and other materials necessary to properly transport the solid waste or other materials away from the customer's residential or commercial premises. For any and all successive non-compliant pick-ups during any twelve (12) month period, the Public Services Director, in addition to the administrative charge, shall have the authority to assess an administrative fee, up to and including, one hundred dollars (\$100.00), commensurate with the reasonably estimated other costs associated with addressing the violations.

**Section 66-65. Preparation of materials for collection.**

- (g) ~~containers for recyclable materials~~ Recycling. All recyclable material shall be placed in the City approved recycling container furnished by the City to the residential user; if more recyclable storage is needed, the City will provide, at no cost, a sticker with the letter "R" that may be placed on the City approved household trash container identifying its use for recyclable material. Material shall be placed in the designated City approved recycling container with the lid completely closed, and shall not be bagged. Materials placed for recycling shall only include items designated by the City. Mixing of non-designated items, garbage or yard trash with recycling will be subject to refusal by the solid waste collector and may incur costs and fees in accordance with the provisions of Section 66-40(g). The recycling container must be free of garbage, and recyclable items in the recycling container must be sufficiently free of food waste, so it does not attract bears.

**Section 66-66. Placement of materials for collection.**

- (b) Additional Restrictions within Bear Management Areas. Garbage containers containing household garbage must be maintained in a secured structure, inaccessible to bears, such as a garage or bear proof enclosure. The containers must be placed at the curb or the point designated by the Public Services Director for collection, no earlier than 5:00 a.m. and not later than 7:00 a.m. on collection day. As an alternative, residents may use a City approved bear resistant household garbage container in place of the standard garbage container, in which case the additional restrictions in this Section may be avoided.

**Section 66-68. Fee Schedule - Residential.**

- (i) Disable Service. No additional charges, if the requirements of Section 66-40(a) are satisfied.

**Section 66-90. Preparation of materials for collection.**

- (h) Additional Restrictions within Bear Management Areas. Commercial garbage collection customers which are located within designated Bear Management Areas are required to report any incidence of a bear accessing or attempting to access refuse containers on the customer's property to the City of Apopka Public Services Department within 48 hours.

**SECTION II. Public Employees**

That no provision of this chapter designating the duties of any City officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty for failure to perform such duty.

SECTION III. Penalty:

Violations of this Ordinance shall be prosecuted in the manner provided by general law and the Apopka Code of Ordinances.

SECTION IV. Conflicts:

All ordinances and resolutions, or parts of ordinances and resolutions in conflict herewith are hereby repealed.

SECTION V. Severability:

If any section, or portion of a section or subsection, of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or portion of a section or subsection or part of this ordinance.

SECTION VI. Effective Date:

This ordinance shall become effective immediately upon adoption.

FIRST READING: August 1, 2018

SECOND READING  
and ADOPTION: August 15, 2018



\_\_\_\_\_  
Bryan Nelson, Mayor

ATTEST;

  
\_\_\_\_\_  
Linda F. Goff, City Clerk

DULY ADVERTISED FOR PUBLIC HEARING: August 3, 2018.