



ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING THE STANDARDS AND SPECIFICATIONS FOR BEAR-RESISTANT GARBAGE CAN REQUIREMENTS WITHIN THE COUNTY OF EL DORADO.

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.76 of Title 8 of the El Dorado County Ordinance Code entitled Bear-Resistant Garbage Can Enclosures within the County of El Dorado is hereby amended in its entirety to read as follows:

CHAPTER 8.76

BEAR-PROOF GARBAGE CAN REQUIREMENTS

Section 8.76.010. - Title.

This chapter shall be known as the “Bear-Proof Garbage Can Requirements Ordinance.”

Section 8.76.020. - Purpose.

The purpose of this chapter is to establish requirements for the proper storage of residential and commercial garbage in a defined portion of the unincorporated area of the Lake Tahoe Basin and supersede any less restrictive requirements set forth in Chapter 8.42 – Solid Waste Management.

Section 8.76.030. - Findings.

The Board of Supervisors of the County of El Dorado finds that:

- A. The installation and use of bear-proof garbage can enclosures reduces animal access to garbage and reduces the likelihood of unintended interaction between humans and wildlife, and specifically bears, thereby increasing the risks to public health, safety, and welfare of residents and visitors.

- B. The installation and use of bear-proof garbage can enclosures helps to protect local wildlife from becoming dependent upon human sources of food.
- C. The installation and use of bear-proof garbage can enclosures reduces the likelihood of property damage due to wildlife foraging for human garbage.

Section 8.76.040. - Applicability.

This chapter shall apply in the unincorporated portions of the County that lie within the boundaries of the Silver Fork, Tahoe Truckee Unified, and Lake Tahoe Unified School Districts, as amended from time to time and as identified on the El Dorado County Office of Education or Tahoe Truckee Unified School District websites.

Section 8.76.050. - Definitions.

For purposes of this chapter, the following words and phrases are defined as follows, except where the context clearly indicates a different meaning:

- A. *Bear-proof garbage can enclosure* or *bear box* means a secured enclosure, made of metal, with a secured door or doors in front of the enclosure, or equivalent, and a design that has been determined by the South Lake Tahoe Basin Waste Management Authority to be sturdy, weather resistant, and constructed so the contents of the garbage can enclosure are inaccessible to bears when kept closed and locked. A list of approved bear-proof garbage can enclosures shall be available to the public at the Lake Tahoe office of the Environmental Management Department and the County Planning and Building Department. An approved bear-proof garbage can enclosure does not include dumpsters, construction tools, or materials storage boxes, or similar metal boxes, that are not identified on the South Lake Tahoe Basin Waste Management Authority approved list of bear-proof garbage can enclosures, unless specifically approved for a particular address in writing by the franchised waste hauler. Unless specifically approved, construction tools or materials storage boxes, or similar metal boxes, shall not be serviced by the franchised waste hauler.
- B. *Bear-resistant container* means a metal or heavy-duty plastic garbage can that is constructed so as to be normally inaccessible to bears if the lid is kept closed and sealed. An approved bear-resistant container does not include construction tools or materials storage boxes, or similar metal boxes, unless specifically approved for a particular address in writing by the franchised waste hauler. Unless specifically approved, construction tools or materials storage boxes, or similar metal boxes, shall not be serviced by the franchised waste hauler.
- C. *Commercial or commercial property* means property used for conducting business thereon, including, but not limited to, retail sales, services, wholesale operations, manufacturing and industrial operations, school facilities (both public and private), other institutions, and

governmental agencies, but excluding businesses conducted upon residential property (as defined herein).

- D. *Director* means the Community Development Services, Environmental Management Department Director, or his/her authorized designee or successor.
- E. *Existing residential property* means a residential property lawfully occupied as of the date the ordinance from which this chapter is derived was adopted, provided that the property is not used as a vacation home rental.
- F. *Existing vacation home rental* means a vacation home rental lawfully permitted as of the date the ordinance from which this chapter is derived was adopted.
- G. *Franchised waste hauler* means the entity that has a current franchise agreement, approved by the County of El Dorado Board of Supervisors, for the collection, transport, and disposal of solid waste in a defined area of the unincorporated portion of the Lake Tahoe Basin.
- H. *Multi-Family* or *Multi-Family Property* means the parcel and the building(s) on it containing five (5) or more individual residential dwellings. Multi-Family properties have shared, centralized collection service for all dwellings and are billed to one (1) address, typically the owner or property manager.
- I. *New residential construction* means creating a new residential unit or guest quarters.
- J. *Remodeled home* means a residence with a remodel project with an estimated permit value equal to or greater than \$20,000.
- K. *Residential* or *residential property* means on, of, or pertaining to property used for residential purposes, irrespective of whether such dwelling units are rental units or owner-occupied, or whether commercial activities are conducted thereon or therefrom, provided that such commercial activities are permitted under applicable zoning regulations and do not consist of the primary use of the property.
- L. *South Lake Tahoe Basin Waste Management Authority* means the Joint Powers Authority (JPA) comprised of one (1) elected representative of the County of El Dorado Board of Supervisors, City of South Lake Tahoe City Council, and Douglas County, Nevada, Board of County Commissioners.
- M. *Vacation home rentals* as defined in Chapter 5.56 – Vacation Home Rentals in the Lake Tahoe Basin, which may be amended from time to time, means one (1) or more dwelling units, including either a single-family home, duplex, or single condominium unit rented for the purpose of overnight lodging for a period of not less than one night and not more than thirty (30) days, other than ongoing month-to-month tenancy granted to the same renter for the same unit.

Section 8.76.060. - Residential Garbage Can Enclosure.

- A. The owner, lessee, resident, or person exercising physical control of any residential property shall install an approved bear-proof garbage can enclosure in either of the following circumstances:
1. Prior to issuance of the building permit or certificate of occupancy for all new residential construction and remodel projects; or
 2. Within thirty (30) days of notification by the Environmental Management Department that installation of an approved bear-proof garbage can enclosure is required because the garbage collection or storage site or bear-resistant container has been inspected and determined to be a bear access problem by the Environmental Management Department or another agent or organization approved by the County Board of Supervisors.
- B. Notwithstanding the timeframes specified herein, installation of bear-proof garbage can enclosures may be delayed with prior written approval from the Director finding that such delay is necessary due to Tahoe Regional Planning Agency requirements or frozen ground conditions.
- C. Bear-proof garbage can enclosures shall:
1. Not be located within a County-maintained road right-of-way or easement;
 2. Be located as near as possible to, and no more than ten (10) feet from, the edge of right-of-way for County-maintained roads;
 3. Be consistent with the minimum setback requirements pursuant to El Dorado County Ordinance Code section 130.30.030; and
 4. Be located no more than ten (10) feet from the edge of privately maintained roads.
- D. Unless a notice is sent under subsection (A)(2), existing residential properties may continue to use garbage and recycling containers that are stored within the residence, in an enclosed garage, or other structure that is inaccessible to bears, provided that residents only remove and set out their garbage and recycling containers for collection by the franchised waste hauler no earlier than 6:00 a.m. on the regularly scheduled day of collection and return such cans to the house, garage, or structure on the same day of collection. Existing residential properties may keep outside or set out for collection their trash and recyclables containers on days and times other than those specified herein provided that they use bear-resistant containers that are effective in preventing bears and other animals from accessing the trash and recyclables and the bear-resistant containers are in good repair and otherwise meet all other requirements of this chapter. If a bear-resistant container used by a resident is ineffective in preventing bear or other animal access to the resident's trash and recyclables, the resident must either install and use a bear-proof garbage can enclosure or keep all trash

and recyclables in an enclosed garage or part of the house, or similar structure that is inaccessible to bears.

- E. Residents that live in a development managed by a Home Owner's Association (HOA) or Property Owner's Association (POA) may submit to the Environmental Management Department a request for exemption from this Ordinance accompanied by a proposed alternative garbage management plan for preventing animal access to garbage. Said garbage management plan must:
- a. Provide for education of property owners regarding proper handling and placement of garbage so as to prevent bear or other animal access;
 - b. Provide for enforcement by the HOA / POA Board against non-compliant property owners; and
 - c. Be approved by the Director. The Director may rescind approval of the alternative garbage management plan at any time for failure to meet the requirements set forth in the approved plan or if the approved plan does not adequately satisfy the purpose and intent of this chapter.

Section 8.76.070. – Vacation Home Rental Requirements.

- A. All new vacation home rentals of four (4) or less units shall have an approved bear-proof garbage can enclosure installed prior to the issuance of a vacation home rental permit pursuant to the provisions of Chapter 5.56. Vacation home rentals of five (5) or more units may utilize approved bear-proof garbage can enclosures or commercial container(s), as approved by the franchised waste hauler, and as determined appropriate and required for the premises by the Environmental Management Department.
- B. All existing vacation home rental units, at the time of the adoption of this ordinance from which this chapter is derived, shall have an approved bear-proof garbage can enclosure installed by October 15, 2018, unless delay is otherwise approved pursuant to subsection 8.76.060(B) of this chapter.
- C. All new and existing vacation home rentals shall meet the following minimum bear-proof garbage can enclosure capacity requirements:
1. Residential units less than 2,500 square feet shall install and maintain a minimum of one (1) bear-proof garbage can enclosure capable of holding two (2) thirty-two (32) gallon plastic or metal garbage cans;

2. Residential units 2,500 to 3,500 square feet shall install and maintain a minimum of one (1) or more bear-proof garbage can enclosure(s) capable of holding three (3) thirty-two (32) gallon plastic or metal garbage cans; and
 3. Residential units greater than 3,500 square feet shall install and maintain a minimum of one (1) or more bear-proof garbage can enclosure(s) capable of holding four (4) thirty-two (32) gallon plastic or metal garbage cans.
- D. Any owner shall ensure that persons renting their home comply with this chapter and the owner may be subject to the administrative fines of section 8.76.110 for the failure of persons renting their home to properly utilize the bear-proof garbage can enclosure.
- E. Notwithstanding subsection (A) of this section, all vacation home rental units within multi-unit complexes, such as a condominium complex, must meet the requirements of section 8.76.080, Multi-Family Requirements, if bear-proof garbage can enclosures are not installed for each unit. These Multi-Family requirements must be satisfied prior to the issuance of a vacation home rental permit pursuant to the provisions of Chapter 5.56 for new vacation home rentals or by October 15, 2018 for existing vacation home rentals.

Section 8.76.080. - Multi-Family Residential Requirements.

- A. Multi-family residential complexes shall use either: (1) a dumpster provided or approved by the franchised waste hauler; or (2) an approved bear-proof garbage can enclosure, unless an alternative container is specifically approved for a particular address in writing by the franchised waste hauler. Unless specifically approved, construction tools or materials storage boxes, or similar metal boxes, shall not be allowed or serviced by the franchised waste hauler.
- B. All multi-family unit complexes using dumpsters or bins shall have metal bear-resistant lids with locking bars; provided, however, plastic lids may be allowed at the discretion of the franchised waste hauler, but shall be replaced with metal lids if the plastic lids are not capable of keeping bears and other wildlife out of the dumpsters or bins when the lids are closed.
- C. Multi-family unit complex customers shall use a combination lock or other bear-resistant locking mechanism to secure the locking bar on the dumpsters and bins.
- D. Dumpsters and bins shall be locked at dusk and may be unlocked no earlier than sunrise or 5:00 a.m. on the day of collection. Customers shall unlock the dumpsters or bins prior to collection on the day of collection.

- E. Lids must remain closed during the day except when refuse is being added or removed from the container.

Section 8.76.090. - Commercial Requirements.

- A. A commercial premise shall use either: (1) a dumpster provided or approved by the franchised waste hauler; or (2) an approved bear-proof garbage can enclosure unless an alternative container is specifically approved for a particular address in writing by the franchised waste hauler. Unless specifically approved, construction tools or materials storage boxes, or similar metal boxes, shall not be allowed or serviced by the franchised waste hauler.
- B. All commercial dumpsters or bins shall have metal bear-resistant lids with locking bars; provided, however, plastic lids may be allowed at the discretion of the franchised waste hauler, but shall be replaced with metal lids if the plastic lids are not capable of keeping bears and other wildlife out of the dumpsters or bins when the lids are closed.
- C. Commercial customers shall use a combination lock or other bear-resistant locking mechanism to secure the locking bar on any dumpsters and bins.
- D. Dumpsters and bins shall be locked at dusk or the close of business, whichever comes first, and may be unlocked no earlier than sunrise or 5:00 a.m. on the day of collection. Customers shall unlock the dumpsters and bins prior to collection on the day of collection.
- E. Lids must remain closed during the day except when refuse is being added or removed from the container.

Section 8.76.100. - Use and Maintenance of Bear-Proof Garbage Can Enclosures.

- A. The owner, lessee, resident, or person exercising physical control of any private property shall at all times maintain and use an approved bear-proof garbage can enclosure for the collection, storage, and disposal of garbage when required to do so by this chapter.
- B. Each bear-proof garbage can enclosure and surrounding area shall be maintained in a manner to minimize odor and nuisance.
- C. All garbage must be placed in plastic or metal cans inside the bear-proof garbage can enclosure. Bagged or loose garbage may not be placed inside the bear-proof garbage can enclosure unless also stored in a plastic or metal garbage can.
- D. Bear-proof garbage can enclosure doors, or equivalent, shall not be opened except when necessary to place garbage cans inside or to remove the garbage cans from the bear-proof garbage can enclosure.

- E. The bear-proof garbage can enclosure shall not be overloaded to the extent the enclosure cannot be securely closed.

Section 8.76.110. - Administration and Enforcement.

- A. Violation of any requirement of this chapter, including but not limited to the failure to install a bear proof garbage can enclosure, the improper use of such enclosure, or the improper storage of garbage, shall be subject to a progressive warning and penalty structure implemented and enforced by the Environmental Management Department. The intent of the enforcement program is to secure compliance with these regulations and deter future violations, but is not intended to be punitive.
- B. Progressive enforcement will be based on a rolling two (2) year period. Specifically, for a given infraction of these regulations, the enforcement measure will be based on the number of past violations by the same person or business within the past two (2) years (24 months), as follows:
 - 1. First offense: the owner, resident, person, or business will receive a written warning notifying them of these requirements and explaining that future infractions will lead to monetary penalties.
 - 2. Second offense: the owner, resident, person, or business will receive a written notice of these requirements and a monetary penalty not to exceed \$200.00 per violation.
 - 3. Third offense: the owner, resident, person, or business will receive a written notice of these requirements and a monetary penalty not to exceed \$400.00 per violatoin.
 - 4. Subsequent offenses: the maximum penalty will increase by \$200.00 per violation for each subsequent offense.
- C. Any person receiving a notice or monetary penalty shall be informed of the South Lake Tahoe Basin Waste Management Authority interest-free loan program, if available and in effect, to have a bear-proof garbage can enclosure installed on their premises.
- D. Any notice under this chapter may be sent by regular mail to the property address associated with the violation or the mailing address for that property.
- E. For a violation based on the failure to have installed an approved bear-proof garbage can enclosure or franchised hauler approved commercial container, as appropriate and required for the premises, the fine shall be waived if, within ninety (90) calendar days of the date on the notice of violation, the owner, resident, person, or business requests a waiver in writing and provides sufficient documentation showing that an approved bear-proof garbage can enclosure or franchised hauler approved commercial container, as appropriate and required for the premises, has been installed.
- F. Any unpaid fines may be collected pursuant to the procedures and remedies in Chapter 9.02.

Section 8.76.120. - Appeal.

A. Any person or business receiving any notice under this chapter or monetary penalty who contests the notice or monetary penalty, shall have the right to an informal administrative review by the Director on the appropriateness or amount of the notice or monetary penalty. The request for an administrative review must be submitted in writing within thirty (30) calendar days from the date on the the notice or imposition of monetary penalty. The Director shall provide a written decision responsive to the administrative review request within thirty (30) calendar days of receipt of the written request for administrative review.

B. Any resident or business wishing to formally appeal an informal administrative review decision or determination made by the Director under this chapter may do so within thirty (30) calendar days of the Director’s decision in accordance with the provisions set forth in Chapter 9.02 of the County Ordinance Code.

Section 8.76.130. - Severability.

This chapter and the various parts thereof are hereby declared to be severable. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter irrespective of whether one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is held invalid or ineffective.

Pursuant to California Government Code section 25123, this ordinance shall become effective thirty (30) days from the date of final passage.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the _____ day of _____, 2018, by the following vote of said Board:

Ayes:

Noes:

Absent:

ATTEST

JAMES S. MITRISIN

Clerk of the Board of Supervisors

Deputy Clerk

Michael Ranalli, Chair, Board of Supervisors

**APPROVED AS TO FORM
MICHAEL J. CICCOTZI
COUNTY COUNSEL**

By: _____

Breann M. Moebius
Deputy County Counsel