ORDINANCE NO. 2015-33 **SEMINOLE COUNTY, FLORIDA**

AN ORDINANCE OF SEMINOLE COUNTY RELATING TO URBAN BEAR MANAGEMENT; AMENDING THE SEMINOLE COUNTY CODE TO INCLUDE A NEW CHAPTER 258 ADDRESSING REFUSE COLLECTION AND OTHER WILDLIFE MANAGEMENT TECHNIQUES INTENDED TO REDUCE HUMAN-BEAR CONFLICTS; PROVIDING DEFINITIONS; CREATING STANDARDS FOR REFUSE MANAGEMENT WITHIN IDENTIFIED URBAN BEAR MANAGEMENT AREAS; CREATING OTHER MISCELLANEOUS PROVISIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR APPLICATION IN UNINCORPORATED AND INCORPORATED AREAS OF THE COUNTY UNLESS THERE IS A CONFLICT; ESTABLISHING THE WEST SEMINOLE COUNTY URBAN BEAR MANAGEMENT AREA; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, Seminole County 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 areas; 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

CERTIFIED COPY
MARYANNE MORSE
Clerk of Circuit Court and Comptroller
SEMINOLE COUNTY, FLORIDA
BY _____
DEPUTY CLERK

WHEREAS, in 2013 and 2014 there were three human-bear conflicts that resulted in serious injuries to people in the area of Seminole County located west of Interstate 4; and

WHEREAS, the FWC reports that since 2008, it has received reports of over 6,600 human-bear "conflicts" in the area of Seminole County located west of Interstate 4; and

WHEREAS, FWC officials have described the portion of Seminole County located west of Interstate 4 as the "epicenter of human-bear conflict"; and

WHEREAS, the Seminole County Board of County Commissioners finds that the incidence of bears entering populated areas of Seminole County 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 County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Incorporation of Recitals. The above recitals are incorporated herein by reference and form an integral part of the Ordinance.

Section 2. Short Title. This Ordinance shall be known and referred to as the "Seminole County Urban Bear Management Ordinance."

Section 3. Intent and Purpose. The intent and purpose of this Ordinance is to minimize the risk of dangerous interactions between humans and bears in Seminole County by establishing standards for the storage of materials that attract bears within Urban Bear Management Areas.

Section 4. Creation of Chapter 258, Seminole County Code. Chapter 258, "Urban Bear Management," is hereby created to read as follows:

PART 1. URBAN BEAR MANAGEMENT.

Sec. 258.1. Definitions. As used in this Chapter, the following terms shall mean as indicated below.

Attractant: Any substance that attracts bears or could reasonably be expected to attract bears including, but not limited to: food products, pet food, feed, compost, grain, salt or Refuse. Growing native plants such as palmetto berries, oak trees with acorns, or berry bushes are excluded from this definition.

Bear Resistant Commercial Refuse Container: A Commercial Refuse Container with a reinforced lid and a latching mechanism, or other County-approved method, that prevents access to the contents by bears.

Bear Resistant Refuse Container: A Bear Resistant Commercial Refuse Container or Bear Resistant Residential Refuse Container.

Bear Resistant Residential Refuse Container: A fully enclosed Residential Refuse Container, of sturdy construction, with a reinforced lid. The lid must have a latching mechanism that prevents access to the contents by bears.

Code Enforcement Officer: Board designated employees or agents of Seminole County whose duty it is to enforce codes and ordinances in the County or any law enforcement officer as defined in Section 943.10(1), Florida Statutes, or its successor provision.

Commercial Property: All improved property that is used for residential or nonresidential purposes and that utilize a Commercial Refuse Container for the collection of Refuse, including, but not limited to commercial, industrial and multi-family developments.

Commercial Refuse Container: Any detachable Refuse Container that is designed or intended for mechanical pickup, generally referred to as a "dumpster."

Development Approval: Approval of Planned Development (PD) zoning, Planned Development (PD) Development Order amendments, Planned Development Final Development Plan, Subdivision Plan, Final Engineering Plan or Plat.

Person: Any individual, partnership, firm, organization, corporation, association or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

Refuse: Any waste that could reasonably attract bears including, but not be limited to: kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings and grease.

Residential Property: All improved property that is used for residential purposes and that utilizes Residential Refuse Containers for the collection of Refuse.

Residential Refuse Container: Any commonly available light gauge steel, plastic or galvanized receptacle of a nonabsorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s) and/or waterproof plastic bags of heavy mill construction that can be safely and securely closed.

Responsible Party: The record owner of any property subject to this Part, a tenant or occupant of any property subject to this Part, a hauler providing Refuse collection service to Commercial Properties, or the operator of a business located on any property subject to this Part.

Secured Structure: Designated 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.

Special Event: A use or activity offered to the general public that is not contemplated in the approved site plan or other development approval, and which is generally consistent with the applicable zoning district. Special events shall include gatherings or events, or series of related

consecutive daily gatherings or events, including but not limited to: those of an entertainment, cultural, recreational, educational, commercial, social or sporting in nature, which occur outdoors on a site.

Urban Bear Management Area: An area within Seminole County in which there is a high incidence of bears foraging for food in Refuse containers and other sources, occurring at a level that poses a threat to the health, safety, and welfare of the citizens and visitors to Seminole County. Urban Bear Management Areas will be established by Ordinance upon determination by the Board of County Commissioners that the aforementioned conditions exist. For the purposes of this Part, the term "Urban" is intended to distinguish areas of the County where development has occurred as opposed to undeveloped natural lands; as such, "Urban Bear Management Areas" may be established in any area within Seminole County where human-bear conflicts may occur, including the "Rural Area" as established within the Seminole County Home Rule Charter.

Sec. 258.2. Residential Refuse Disposal within Urban Bear Management Areas.

1. Within Urban Bear Management Areas, all Refuse from Residential Properties must be secured within a functioning Bear Resistant Residential Refuse Container or secured within a house, garage, shed, or other Secured Structure at all times, with the exception of the placement of Residential Refuse Containers at the designated collection location as permitted by this Part.

2. Residential Refuse Containers associated with Residential Property curbside collection services may be placed at the designated collection location on the scheduled collection day no earlier than 5:00 A.M. Residential Refuse Containers must be removed from the collection location and secured as soon as practicable after collection service have been provided on the same

scheduled collection day. The aforementioned time restrictions do not apply to Bear Resistant Residential Refuse Containers.

3. Recyclable materials stored outside until scheduled collection day, and/or placed at a designated collection location on scheduled collection day must be sufficiently free from residue of food and other materials so that they are not an Attractant to bears.

4. Other household items that cannot reasonably be considered Refuse or an Attractant, including but not limited to, nonedible yard maintenance waste, household items, and recyclable materials are not required to be secured within a Bear Resistant Residential Refuse Container or within a house, garage, shed, or other Secured Structure. If such waste is comingled with Refuse or an Attractant, it must be secured within a Bear Resistant Residential Refuse Container or within a house, garage, shed or other Secured Structure.

5. Development Approvals for residential subdivisions within any Urban Bear Management Area will include the requirement that Bear Resistant Residential Refuse Containers be used for all Residential Properties and common areas within the subdivision.

6. Only Bear Resistant Residential Refuse Containers chosen from a County-approved list will be considered compliant with this Ordinance.

7. Responsible Parties that choose to utilize Bear Resistant Residential Refuse Containers as a means to comply with this Part shall be responsible for all costs associated there with, including the cost to purchase the Bear Resistant Residential Refuse Containers and any additional service fee imposed by the Refuse hauler.

Sec. 258.3. Commercial Refuse Disposal within Urban Bear Management Areas. Within Urban Bear Management Areas, all Commercial Properties are required to place Refuse within a Bear Resistant Commercial Refuse Container. Bear Resistant Commercial Refuse

Containers must remain secured at all times except when loading or unloading the Refuse, and the area around the Container must be kept clean of Refuse and debris. If damaged in a manner that would permit bear access, the damage must be reported to the company responsible for the maintenance of the Container and repaired within 48 hours after the damage is discovered. Commercial Property collection service customers will be responsible for any cost associated with compliance with this requirement.

Sec. 258.4. Special Event Refuse Disposal within Urban Bear Management Areas. Within Urban Bear Management Areas, Special Events that occur outside must be kept free from the accumulation of Refuse. Refuse must be collected from the grounds and must be secured within the appropriate Bear Resistant Refuse Container, secured within a Secured Structure, or removed from the Urban Bear Management Area to an appropriate disposal site at the close of each day's activities.

Sec. 258.5. Construction Site Refuse Disposal within Urban Bear Management Areas. Within Urban Bear Management Areas, all construction sites must have a designated secure container to receive Refuse. The designated container must be an appropriate Bear Resistant Refuse Container or a Secured Structure. The designated containers are to remain secured at all times except when loading or unloading Refuse. If damaged in a manner that would permit bear access, the damage must be reported to the company responsible for the maintenance of the Container and repaired within 48 hours after the damage is discovered. Construction site collection service customers will be responsible for any cost associated with compliance with this requirement.

Sec. 258.6. Compactors within Urban Bear Management Areas. Any outdoor trash compactor receiving Refuse must be kept inaccessible to bears. Compactor doors must be kept

closed and latched with a bear resistant mechanism at all times, except when loading or unloading Refuse, and the area around the compactor must be kept clean of Refuse and debris. If damaged in a manner that would permit bear access, the damage must be reported to the company responsible for the maintenance of the compactor and repaired within 48 hours after the damage is discovered. Commercial Property collection service customers will be responsible for any cost associated with compliance with this requirement.

Sec. 258.7. Feeding Bears Prohibited.

1. No Person shall intentionally or unintentionally feed or provide food to bears in any manner on any public or private property within Seminole County. A Person will be considered in violation of this Ordinance if the Person leaves or stores any Attractant in a manner that creates, or would reasonably be expected to create, a lure or enticement for bears.

2. Within Urban Bear Management Areas 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. Fruit Trees: Fruit, with the exception of citrus fruits, must be picked when it becomes ripe, and all fallen fruit must be promptly removed from the ground.

c. Compost: Meat, fish, oil, dairy, large amounts of fruits or other particularly odorous Attractants are not permitted to be used for composting. Compost must be aerated and turned regularly to reduce odor and hasten the composting process, and shall be pursued consistent

with guidelines for bear-resistant composting issued by the Florida Fish and Wildlife Conservation Commission.

d. Barbecue Grills: Grease traps must be emptied, excess food must be burned off, and grills must be cleaned after each use.

e. 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 Secured Structure or in a Bear Resistant Refuse Container.

f. Vehicles: Odorous items such as trash, groceries, pet food, soda cans, livestock grain, or coolers may not be stored in vehicles overnight.

Sec. 258.8. Enforcement and Penalties.

1. Any Responsible Party found to be in violation of the provisions of this Part may be subject to any applicable enforcement mechanisms available to the County including, but not limited to: prosecution in the same manner as a misdemeanor, as provided in Section 125.69, Florida Statutes and Section 1.8 Seminole County Code; referral to the Seminole County Code Enforcement Board or Code Enforcement Magistrate; or the issuance of a citation pursuant to Section 53, Part 2, of the Seminole County Code.

2. Each violation hereunder will be deemed a separate offence and a separate offence will be deemed committed on each day during or on which a violation occurs or continues.

3. Violations of this Ordinance are classified as a Class II violation with a civil penalty of $100.00 per violation per day for the first five (5) offences, and a Class III violation with a civil penalty of $200.00 per offence thereafter, pursuant to Section 53.31, Seminole County Code, or as amended.

4. The imposition of a penalty for a violation does not excuse the violation nor does it imply permission for the violation to continue. All Persons found to be in violation will be required to correct or remedy such violations or defects within a reasonable time.

5. Citation Issuance.

a. The Board of County Commissioners is authorized to designate certain employees as Code Enforcement Officers.

b. It shall be the duty of any person designated as a Code Enforcement Officer to enforce the Seminole County Urban Bear Management Ordinance (Chapter 258, Seminole County Code, or its successor), subject to the established operating procedures for enforcement activities.

c. A Code Enforcement Officer hereunder or any law enforcement officer as defined in Section 943.10(1), Florida Statutes, or its successor, is hereby authorized to issue citations for the violation of the Urban Bear Management Ordinance, when, based upon personal investigation, the Officer has reasonable and probable grounds to believe that a violation of the Ordinance exists, subject to the established operating procedures for enforcement activities.

6. Code enforcement officers must consult with the Florida Fish and Wildlife Conservation Commission or its successor agency, prior to engaging in enforcement activities relative to Section 258.7 of this Part to determine if the activity in question creates, or would reasonably be expected to create, a lure or enticement for bears as evidenced by previous reports received by the Florida Fish and Wildlife Conservation Commission indicating that human-bear conflicts associated with Attractants have occurred in the area.

7. The County Manager is hereby authorized to establish operating procedures and guidelines for the implementation of enforcement activities relative to this Part.

Sec. 258.9. Applicability. This Ordinance will apply in both the unincorporated and incorporated areas of the County; provided that any provision of this Code in conflict with a municipal ordinance will not be effective within such municipality to the extent of such conflict.

Sec. 258.10. Time Period for Compliance.

1. Residential Properties must comply with the Refuse disposal requirements contained within this Part within 30 days of the date of adoption of an Ordinance by the Board of County Commissioners establishing an identified Urban Bear Management Area.

2. Commercial Properties must comply with the Refuse disposal requirements contained within this Part within 60 days of the date of adoption of an Ordinance by the Board of County Commissioners establishing an identified Urban Bear Management Area.

3. All construction sites must comply with the Refuse disposal requirements contained within this Part within 30 days of the date of adoption of an Ordinance by the Board of County Commissioners establishing an identified Urban Bear Management Area.

4. Haulers providing Refuse collection service to Commercial Properties shall make Bear Resistant Commercial Refuse Containers available within 60 days of the adoption of an Ordinance by the Board of County Commissioners establishing an identified Urban Bear Management Area.

5. All other provisions of this Part shall become operative upon the effective date of the Ordinance enacting this Part or establishing an identified Urban Bear Management Area.

Section 5. Establishment of the West Seminole County Urban Bear Management Area. The Board of County Commissioners of Seminole County hereby finds that the area within Seminole County located west of Interstate 4, and the area immediately to the east of Interstate 4, have experienced an incidence of bears foraging for food in Refuse containers, and other sources,

occurring at a level that poses a threat to the health, safety, and welfare of the citizens and visitors to Seminole County. In light of such finding, the "West Seminole County Urban Bear Management Area" is hereby established as depicted in the attached Exhibit A.

Section 6. Severability. If any provision of this Ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding will not affect the remaining portions of this Ordinance. If this Ordinance, or any provision thereof, is held to be inapplicable to any person, property, or circumstance, such holding will not affect its applicability to any other person, property, or circumstance.

Section 7. Conflicts. The provision of this Ordinance will prevail in the event of conflict with the provision of any existing ordinance.

Section 8. Codification. It is the intent of the Board of County Commissioners that the substantive provision of this Ordinance will become and be made part of the Seminole County Code and that the word "ordinance" may be changed to "section," "part," or other appropriate word or phrase, and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that Sections 6, 7, 8, and 9 of this Ordinance will not be codified.

Section 9. Effective Date. This Ordinance will take effect upon filing a copy of this Ordinance with the office of the Florida Secretary of State by the Clerk to the Board of County Commissioners.

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BE IT ORDAINED by the Board of County Commissioners of Seminole County, this 8th day of Dec., 2015

ATTEST:

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

JOHN HORAN, Chairman

CMO
12/8/15
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