

ORDINANCE NO. 612

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING SECTION 2.2 OF THE LAND DEVELOPMENT CODE BY ADDING A DEFINITION FOR COLLECTION BINS AND ADDING NEW SECTION 8.7.25 REGULATING THE PLACEMENT OF COLLECTION BINS WITHIN THE CITY LIMITS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, US district courts have ruled that charitable solicitation via collection bins is protected free speech under the First Amendment and cannot be banned, but can be regulated; and

WHEREAS, the Orange City Comprehensive Plan, Future Land Use Element, Policy 2.2.1, requires regulation of on-site features affecting the quality and character of development in all land use designations; and

WHEREAS, there has been a recent proliferation of collection bins located within the City on public and private property; and

WHEREAS, the City's Land Development Code does not have specific standards relating to unattended collection bins concerning site location, number of bins, maintenance, or security of collection bins; and

WHEREAS, unattended collection bins can be detrimental to the overall appearance of the City, diminish property values, and without the property owner's permission, can be illegally placed on real property; and

WHEREAS, poor management and maintenance of collection bins can result in nuisance accumulation through unauthorized and illegal dumping leading to garbage and trash collection in and around the donation bin; and

WHEREAS, the Planning Commission prepared proposed regulations of collection bins on January 2, 2019 and February 6, 2019, held a public hearing on March 6, 2019, and thereafter recommended regulation of collection bins to the City Council for approval; and

WHEREAS, the City Council finds that it is in the best interest of the health, safety and welfare of general public to adopt standard for the location and maintenance of unattended donation bins within the City to address and mitigate the potential negative effects as recited above; and

WHEREAS, the City of Orange City finds and determines that these amendments to the City's Land Development Code are consistent with all applicable policies of the City's adopted comprehensive plan and not in conflict with the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. The foregoing whereas clauses are incorporated herein as legislative findings by this reference and made a part hereof for all intents and purposes.

SECTION 2. Section 2.2, Land Development Code, is hereby amended by adding a new definition for “Collection Bins” and inserted in alphabetical order as follows:

...

Collection bins. Unattended outdoor receptacles dedicated for the sole purpose of collecting non-trash items for reuse, resale, or recycling and placed in accordance with the regulations of Section 8.7.25, Land Development Code. The City’s recycling program and the collection containers used in conjunction with principle permitted uses are exempt from these provisions.

...

SECTION 3. Section 8.7- Supplementary regulations, is amended by adding a new Section 8.7.25 to regulate the placement of collection bins within the City limits as follows:

...

8.7.25. *Collection bins.* One collection bin is allowed on each developed nonresidential property located in the CG-1, CG-2, I-1, I-2, or MX-2 zoning districts in compliance with the following regulations:

- A. Permit required. A collection bin operator must obtain a permit from the City prior to placing a collection bin on a developed property within the City.
 1. The permit is valid for a duration not to exceed 12 months and can be renewed on a yearly basis. Each renewal requires a new permit application and fee.
 2. The permit at minimum shall include the operator’s contact information, proof of registration with the State of Florida Charitable Solicitation Division, site plan showing the location of the bin and all other structures, driveways, parking areas, and any other existing or proposed improvements on the property, and notarized written consent from property owner.
 3. The assigned permit number, permittee’s name, logo, telephone number, email address, and name of the benefitting organization must be prominently displayed on the collection bin so as to provide a means of contact in case the collection bin is at capacity and unable to take any further items, for maintenance concerns, notice or for any other issue that may arise with the collection bin.
 4. Following issuance of the permit, the collection bin is prohibited from being relocated within the property without application and City approval of a new permit.
- B. Development standards.
 1. Location. The following location restrictions apply to all collection bins.
 - a. Not within front yard area.
 - b. Not within 10 feet from side or rear lot lines.
 - c. Not within any required parking space or landscape area.
 - d. Not cause interference with vehicular or pedestrian traffic.

- e. Not cause safety hazard with regard to designated fire lane or building exit.
 - f. Placed and secured on an improved impervious surface.
 - g. Placed in an area that allows for truck access for unloading and maintenance of the collection bin.
 - 2. The collection bin shall not exceed 6 feet in height and 25 square feet base.
 - 3. Each collection bin must be enclosed by utilizing a receiving door or safety chute to prevent vandalism and locked so that the contents of the bin cannot be accessed by anyone other than those responsible for the retrieval of the contents.
- C. Maintenance.
- 1. The collection bin shall be maintained in good condition and appearance with no structural damage, noticeable odors, holes or visible rust, free of graffiti or faded signs and shall be repaired or repainted in the event it is damaged or vandalized within 5 days of discovery or notice by the city, whichever occurs first.
 - 2. The area surrounding the donation bin shall be free of donated items, garbage, trash, junk, debris or other materials and shall be maintained by the collection bin operator.
 - 3. All items or materials left outside of the collection bin shall be removed within 24 hours of discovery or notice by the city, whichever occurs first.
- D. Penalties and enforcement.
- 1. The owner or operator of the collection bin, the permittee, and/or the owner of the private property upon which a violation of these regulations occur may be held individually and severally responsible and liable for such violation.
 - 2. The city may consider prior permit revocations, prior notices of violation and fraudulent application information when granting or denying a new permit for a collection bin.
 - 3. Violations of these provisions may be punished and enforced in accordance with Chapter 2- Administration, Article IV- Code Enforcement.
 - 4. Any person may appeal a decision of the DSD in the enforcement or interpretation of any of the terms or provisions of this section as provided for by chapter 3, section 3.11 of this code.
- ...

SECTION 4. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5. That this ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

REMAINDER OF PAGE LEFT BLANK

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 612):

First Reading this _____ day of _____, 2019.

_____	Jim Mahoney	Kelli Marks	_____
_____	O. William Crippen	Martin E. Harper	_____
_____	Jeff Allebach	Bill O'Connor, Vice Mayor	_____
_____	Gary A. Blair, Mayor		

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 612):

Second Reading this _____ day of _____, 2019.

_____	Jim Mahoney	Kelli Marks	_____
_____	O. William Crippen	Martin E. Harper	_____
_____	Jeff Allebach	Bill O'Connor, Vice Mayor	_____
_____	Gary A. Blair, Mayor		

PASSED and ADOPTED this _____ day of _____, 2019.

ATTEST:

AUTHENTICATED:

Gloria J. Thomas, CMC, City Clerk

Gary A. Blair, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney