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ORDINANCE NO: 180678

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances to prohibit the use of plastic straws by creating a new Division 5 within Article III of Chapter 27; by amending Section 2-339 to provide a civil citation penalty; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

WHEREAS, the City Commission of the City of Gainesville declares that it is in the best interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

WHEREAS, plastic straws are detrimental to the environment because they do not fully degrade, they overburden landfills, introduce unsafe chemicals into the environment, become litter and create hazards for land and aquatic animals due to ingestion, and create impediments to waste reduction and recycling goals, while creating unsightly litter; and

WHEREAS, use and distribution of plastic straws by retailers to consumers for use has a detrimental effect on the public health, safety and welfare of the City, County and State; and

WHEREAS, plastic straws constitute a portion of the litter in the City's streets, parks, public places and waterways; and

WHEREAS, as an environmental leader among local governments in the State of Florida, the goal of the City is to replace plastic straws with reusable, recyclable, or compostable alternatives whenever possible; and

26 **WHEREAS**, this Ordinance provides for an implementation period (during which this
27 ordinance will not be enforced) allowing retail establishments to expend their current stock of
28 plastic straws and transition to reusable, recyclable, or compostable alternatives; and

29 **WHEREAS**, the City Commission finds that this Ordinance is necessary for the
30 preservation of our environment and the public health, safety and welfare of City residents and
31 visitors and future generations; and

32 **WHEREAS**, at least 10 days' notice has been given once by publication in a newspaper
33 of general circulation notifying the public of this proposed ordinance and of public hearings to be
34 held in the City Commission Auditorium, City Hall, City of Gainesville; and

35 **WHEREAS**, the public hearings were held pursuant to the published notice described at
36 which hearings the parties in interest and all others had an opportunity to be and were, in fact
37 heard.

38 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE**
39 **CITY OF GAINESVILLE, FLORIDA:**

40 **Section 1.** A new Division 5 within Article III of Chapter 27 is created to read as set forth
41 below. Except as amended herein, the remainder of Chapter 27 remains in full force and effect.

42 **CHAPTER 27 - UTILITIES**

43 **ARTICLE III – SOLID WASTE DISPOSAL**

44

45 **DIVISION 5. – PLASTIC STRAWS**

46

47 **Sec. 27-92 – Definitions.**

48 The following words, terms and phrases, when used in this article, shall have the meanings
49 ascribed to them in this section, except where the context clearly indicates a different meaning:

50 Plastic straw means a straw provided to a customer, typically at the point of sale or
 51 distribution, for the purpose of consuming beverages, which is made predominantly of plastic
 52 derived from petroleum or a biologically-based source.

53 **Sec. 27-93. Prohibition on use of plastic straws.**

54 (a) Food service providers and retail establishments shall not sell, use, offer for sale or
 55 use, or provide to any person a single-use plastic straw.

56 (1) Exceptions: Although the discontinuation of the use of plastic straws is strongly
 57 encouraged, this article shall not apply to the sale or use of plastic straws as follows:

58 a. Pre-packaged beverages with plastic straws sold or distributed within the City
 59 provided that such beverages are prepared and packaged outside the City and are not
 60 altered, packaged or repackaged within the City.

61 b. Medical or dental facilities.

62 c. Hospitals.

63 d. Nursing homes or assisted living facilities.

64 d. The sale to or use of a plastic straw by any disabled person who requires or relies
 65 on the use of a straw to consume beverages and/or food supplements.

66 e. A plastic straw that is included with and manufactured as a part of, or in
 67 combination with, a re-usable beverage container and is intended for continued and
 68 multiple uses with such container.

69 **Sec. 27-94. - Enforcement; penalties; injunctive relief.**

70 The city may enforce this article by civil citation in accordance with Chapter 2, Article V,
 71 Division 6. In addition, persons who are not in conformity with these requirements shall be
 72 subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

73 **Section 2.** Section 2-339 of the Gainesville Code of Ordinances is hereby amended as set
 74 forth below. Except as amended herein, the remainder of Section 2-339 remains in full force and
 75 effect.

76 **Sec. 2-339. - Applicable codes and ordinances.**

77 The following ordinances are enforceable by the procedures described in this division:

<u>27-93</u>	<u>Plastic straws</u>	<u>II</u>	<u>\$250.00</u>
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79 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
 80 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
 81 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
 82 renumbered or relettered in order to accomplish such intentions.

83 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
 84 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
 85 finding shall not affect the other provisions or application of the ordinance which can be given
 86 effect without the invalid or unconstitutional provisions or application, and to this end the
 87 provisions of this ordinance are declared severable.

88 **Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
 89 such conflict hereby repealed.

90 **Section 6.** This ordinance shall become effective immediately upon adoption; however,
 91 to allow time for food service providers and retail establishments to expend their current stock of
 92 single-use plastic straws reusable, recyclable, or compostable alternatives, the City will not
 93 commence enforcement of this ordinance until _____, 20____.

94

95 PASSED AND ADOPTED THIS ____ DAY OF _____, 2019.

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LAUREN POE
MAYOR

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ATTEST: Approved as to form and legality

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OMICHELE D. GAINES
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

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This ordinance passed on first reading this ____ day of _____, 2019.

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This ordinance passed on second reading this ____ day of _____, 2019.

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