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2
3 **ORDINANCE NO.**

4 **An ordinance of the City of Gainesville, Florida, amending the**
5 **Code of Ordinances by revising definitions; adding**
6 **requirements for commercial generators of solid waste,**
7 **commercially-collected residential property, and recovered**
8 **material registrants; changing the term of commercial**
9 **franchises; creating a new division regulating single-use plastic**
10 **and polystyrene products; requiring prescription drug**
11 **distributors to provide take back programs for prescription**
12 **drugs; requiring commercial establishments to have additional**
13 **recycling containers; requiring property owners to provide**
14 **commercial tenants with adequate space for solid waste and**
15 **recycling; providing directions to the codifier; providing a**
16 **severability clause; providing a repealing clause; and providing**
17 **an effective date and an enforcement date.**

18 **WHEREAS,** the City Commission finds that this Ordinance is necessary to achieve
19 waste reduction goals of the city by reducing consumption as well as ensuring maximum
20 processing or reuse of recovered materials.

21 **WHEREAS,** at least ten (10) days’ notice has been given once by publication in a
22 newspaper of general circulation notifying the public of this proposed ordinance and of public
23 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of
24 Gainesville; and

25 **WHEREAS,** public hearings were held pursuant to the notice described above at which
26 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

27 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
28 **CITY OF GAINESVILLE, FLORIDA:**

29 **Section 1.** Article III of Chapter 27 of the Gainesville Code of Ordinances is amended to
30 read as set forth below. Except as amended herein, the remainder of Chapter 27 remains in full
31 force and effect.

32 **CHAPTER 27 - UTILITIES**

33 **ARTICLE III – SOLID WASTE DISPOSAL**

34

35 **DIVISION 1. - GENERALLY**

36

37 **Sec. 27-71. - Purpose.**

38 This article is adopted to promote and protect the public health, safety and general welfare of the
39 citizens of the city. The regulations, authority and rates established in this article are for the
40 purpose of providing a solid waste collection and disposal program at a reasonable cost and
41 promoting recycling by both residential and commercial customers.

42 **Sec. 27-72. - Definitions.**

43 For the purpose of this article, the following words and terms are herewith defined:

44 Applicant shall mean

45 (a) a person applying to the city for a franchise required to provide commercial service or
46 collect construction and demolition debris within the city for hire, remuneration or other
47 consideration: or

48 (b) a person applying to the city for a registration certificate required to collect, process,
49 convey or transport recovered materials within the city for hire, remuneration or other
50 consideration.

51 *Appropriate disposal and/or recycling site* shall mean a place that is properly zoned,
52 permitted, registered or licensed in accordance with all applicable local and state laws for the
53 disposal of solid waste and/or the processing of ~~recyclable~~ recovered materials that have been
54 collected by commercial franchisees or registrants.

55 *Cart* shall mean a serial-numbered, two-wheeled container with attached lid and handle,
56 available in approximately 20, ~~350~~, ~~650~~, and ~~950~~ gallon sizes, supplied and distributed by the
57 solid waste collector.

58 *Certified recovered materials dealer* shall mean a dealer certified as provided in F.S. §
59 403.7046.

60 *Commercial customer* shall mean any person who receives commercial service.

61 *Commercial franchisee* shall mean a person who has filed an application with, and
62 received a franchise from, the city to provide one or more of the following services:

63 (a) commercial service;

64 (b) collection of construction and demolition debris.

65 *Commercial generator* shall mean a person who is eligible to receive commercial service
66 under this article and who is the point of origination of solid waste or recovered materials.

67 *Commercial service* shall mean pickup of garbage and trash, but excluding hazardous
68 waste, biomedical waste and yard ~~trash~~ waste, provided by a commercial franchisee to one of the
69 following:

70 (1) a licensed mobile home park ~~exceeding four~~ with five or more dwelling units:

71 (2) multi-family residences ~~exceeding four~~ with five or more dwelling units under one
72 common roof:

73 (3) any residential property that has opted-out of residential service under the terms of
74 this article and is eligible to receive commercially collected residential service:

75 (4) business, commercial or industrial enterprises of all types licensed to do business in
76 the city.

77 *Commercial service container* shall mean an industry-standard container constructed of
78 non-absorbent material, with or without a cover, made for mechanized pickup.

79 *Commercially-collected residential service* shall mean the collection of solid waste, other
80 than hazardous waste and bio-medical waste, provided to persons occupying residential dwelling
81 units ~~in buildings with five or more dwelling units within the city and persons occupying~~
82 ~~residential dwelling units in buildings with two to four dwelling units within the city who have~~
83 ~~been allowed by the city to opt-out of curbside residential service~~ in a development where one or
84 more of the following criteria exists:

- 85 1) the development has at least one building with five or more dwelling units;
- 86 2) the development has a building with two to four dwelling units which has been
87 allowed by the city to opt-out of curbside residential service;
- 88 3) separate developments that share common infrastructure (such as a shared parking lot),
89 ownership, property management, or home owner association but have four or less
90 units per building when the public works director or designee has determined it is in
91 the best interest of the city for operational or aesthetic reasons to provide
92 commercially-collected residential service to the developments.

93 *Compactor* shall mean any container that has a compaction mechanism.

94 *Construction and demolition debris* shall mean materials generally considered to be not
95 water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete,
96 asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or
97 destruction of a structure as part of a construction or demolition project, and including rocks,
98 soils, tree remains, trees, and other vegetative matter that normally results from land clearing or
99 land development operations for a construction project, including such debris from construction

100 of structures at a site remote from the construction or demolition project site. Mixing of
101 construction and demolition debris with other types of solid waste, including material from a
102 construction or demolition site which is not from the actual construction or destruction of a
103 structure will cause it to be classified as other than construction and demolition debris.

104 *Contractor* shall mean the firm with whom the city has contracted to provide residential
105 service.

106 *Curbside* shall mean the designated physical location for the placement of solid waste
107 accumulations intended for residential service collection and disposal. This designated location
108 shall be as near as possible to the traveled streets or alley normally serviced by the contractor's
109 collection vehicles, but in no case upon such street or alley. The intention of a curbside
110 designation is to allow collection by waste control personnel in a rapid manner with walking or
111 reaching minimized. In all cases, the city manager or designee shall have the authority to
112 approve or specify the precise location for such curbside placement.

113 *Customer* shall mean the person, organization or corporation responsible for payment of
114 all residential, commercial or commercially-collected residential services used at a specific
115 location, and further defined as that person, organization or corporation who signed the utility
116 application or commercial service contract requesting that services be made available at the
117 specific location and thereby agreeing to pay for all usage of such services occurring at the
118 location.

119 *De minimus* quantity shall mean

120 (a) no more than 15 percent by volume of total designated recyclable materials,
121 regardless of type, in a solid waste load delivered to a city facility or a facility under contract
122 with the city or in a solid waste container at point of generation; or

123 (b) no more than 15 percent by volume of non-recovered materials ~~non-putrescible and~~
124 ~~no more than five percent by volume putrescible solid waste~~ in a recovered material container at
125 the point of generation.

126 *Designated recyclable materials* shall mean those recyclable materials that are designated
127 ~~in writing~~ by the city manager or designee as potential recovered materials.

128 *Dwelling unit* shall mean a living unit, house, mobile home, apartment or building used
129 primarily for human habitation.

130 *Garbage* shall mean all putrescible waste, which generally includes, but is not limited to,
131 kitchen and table food waste, animal, vegetable, food or any organic waste that is attendant with,
132 or results from, the storage, preparation, cooking or handling of food materials whether attributed
133 to residential or commercial activities.

134 *Living unit* shall mean a place where people reside on a non-transient basis, containing a
135 room or rooms comprising the essential elements of a single housekeeping unit. Each separate
136 facility for the preparation, storage and keeping of food for consumption within the premises
137 shall be considered a separate living unit.

138 *Organic materials* shall mean yard waste, vegetative waste, food waste, non-recyclable
139 paper, or other materials that have known compostable potential, can be feasibly composted
140 and have been diverted and source separated or removed from the solid waste stream, whether
141 or not the materials require subsequent processing or separation.

142 *Pre-paid garbage disposal bag* shall mean a plastic bag, approximately 30 gallons in
143 size, sold by the contractor solid waste collector or by a distributor approved by the city, for use
144 in disposing of solid waste.

145 *Person* shall mean an individual, group of persons, firm, corporation, association,
146 organization, syndicate or business trust.

147 *Rates* shall mean those charges and fees adopted by the city commission by resolution,
148 ordinance or contract for the management of solid waste and recovered materials, including those
149 charges and fees collected by commercial franchisees, except those charged by registrants to
150 commercial generators and generators of construction and demolition debris.

151 *Recovered materials* shall mean metal, paper, glass, plastic, textile or rubber materials
152 that have known recycling potential, can be feasibly recycled and have been diverted and source
153 separated or removed from the solid waste stream for sale, use or reuse as raw materials, whether
154 or not the materials require subsequent processing or separation from each other, but does not
155 include materials destined for any use that constitutes disposal. Recovered materials as described
156 above are not solid waste.

157 *Registrant* shall be a person who has made application with the city to collect, transport,
158 convey or process recovered materials in the city and has subsequently received a registration
159 certificate from the city.

160 *Residential service* shall mean the solid waste collection service provided to persons
161 occupying residential dwelling units in buildings with four or fewer dwelling units within the
162 city.

163 *Solid waste* shall mean sludge unregulated under the federal Clean Water Act or Clean
164 Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution
165 control facility, or garbage, trash, special waste, or other discarded material, including solid,
166 liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial,

167 mining, agricultural or governmental operations. Recovered materials as defined in this article
168 are not solid waste.

169 *Solid waste regulations* shall mean those regulations prescribed by this article along with
170 any administrative rules, procedures and contracts as may be established for the purpose of
171 carrying out the provisions of this article.

172 *Source separated* shall describe those recovered materials separated from solid waste
173 (except other recovered materials or de minimus amount of solid waste) where the recovered
174 materials and solid waste are generated.

175 *Trash* shall mean ~~accumulations of paper, magazines, packaging, containers, sweepings~~
176 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~
177 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~
178 ~~offices and other business places~~ nonputrescible debris that is generated by households,
179 businesses, and institutions.

180 *Yard ~~trash~~ waste* shall mean all accumulations of grass, leaves, shrubbery, vines, tree
181 branches and trimmings which are normally associated with the care and maintenance of
182 landscaping.

183 **Sec. 27-73. - Prohibited acts.**

184 It shall be unlawful for any person to do any of the following:

- 185 (1) To place or cause to be placed any garbage or trash upon the property of another;
186 (2) To collect or transport solid waste for hire or for remuneration or any other form of
187 consideration without first being granted a commercial franchise except as follows:

- 188 (a) Commercial generators transporting their own solid waste; and



189 (b) Persons transporting their own solid waste generated by their own dwelling unit or
190 establishment to an appropriate disposal site;

191 (3) To collect or transport construction and demolition debris for hire or for remuneration or
192 any other form of consideration without first being granted a construction and demolition debris
193 franchise except as follows:

194 (a) Commercial generators transporting their own debris;

195 (b) Persons secondarily providing removal of debris created as a result of other primary
196 services performed by those persons as described in subsection (11) below. Subcontractors who
197 provide primarily collection or transport services shall not qualify for this exemption.

198 (4) To collect, process, convey or transport recovered materials in the city without having
199 registered with the city, except as follows:

200 (a) Persons whose primary business is freight transport that may involve the intermittent
201 transport of recovered materials:

202 (b) Commercial generators transporting their own recovered materials; and

203 (c) Persons transporting their own recovered materials generated by their own dwelling
204 unit or establishment to an appropriate recycling site:

205 (5) To collect recovered materials from a solid waste container used by a consumer or
206 commercial customer receiving service from a franchisee, franchise or registrant, after the
207 consumer or commercial customer places the container and recovered materials at the curb or
208 designated area for collection, except as permitted by the city on an emergency interim basis as
209 part of the city's recycling program when the city manager or designee determines that it is
210 necessary to protect public health, safety or welfare:

- 211 (6) To allow solid waste or recovered materials to spill, blow or drop from any vehicle on
212 any road or to transport any solid waste or recovered material over any public road unless the
213 solid waste or recovered material is securely tied or covered so as to prevent leakage or spillage
214 onto the road;
- 215 (7) To place or store solid waste on any property for a period in excess of one week, unless it
216 is securely contained or covered.
- 217 (8) To deposit or dispose of any garbage or trash on the paved or traveled portion of any
218 public street, or any alleyway, sidewalk, bike path, stream, ditch, river, pond, bay, creek, park,
219 other right-of-way or public place in the city except at areas as may be designated by the city.
- 220 (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or
221 landfill within the city without first obtaining the permission of the custodian thereof;
- 222 (10) To burn any garbage or trash within the city, except at designated incinerators or
223 landfills, without first obtaining a permit from the city;
- 224 (11) To produce or accumulate any construction and demolition debris, tree branches or
225 similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or
226 building contractor), without removal of the same to a designated disposal area;
- 227 (12) To allow any scattered garbage or trash to remain at or near the curbside, or to fail to
228 remove any windblown or animal scattered garbage or trash from a public area and right-of-way
229 which have blown or otherwise scattered from the person's dwelling unit curbside collection
230 point;
- 231 (13) To place any solid waste or ~~recyclable~~ recovered materials out for collection by any alley
232 service drive, easement or right-of-way not serviced by collection trucks;

- 233 (14) To place any solid waste or ~~recyclable~~ recovered materials out for collection adjacent to
234 the street if collection trucks service the area from an established alley;
- 235 (15) To place any solid waste or ~~recyclable~~ recovered materials in an underground container
236 for pickup;
- 237 (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of
238 the city.
- 239 (17) To deposit any hazardous waste as defined in F.S. § 403.703, in any cart or commercial
240 service container;
- 241 (18) To place or cause to be placed any garbage, trash, ~~recyclable~~ recovered materials or other
242 solid waste in the cart or commercial service container belonging to another without proper
243 authority;
- 244 (19) To remove any materials, without proper authority, from any container belonging to
245 another which contains materials set out for recycling;
- 246 (20) To mix yard ~~trash~~ waste with normal solid waste loads, whether for residential or
247 commercial service.
- 248 (21) To leave a garbage, trash, recovered material, or food waste container cover open when
249 not in use.
- 250 (22) To collect garbage, trash, recovered material, or food waste in a container without a
251 properly sized or fitted cover, except for residential curbside recycling bins designed to be open-
252 topped containers.

253 **Sec. 27-74. - City manager to make regulations; enforce article.**

- 254 (a) The city manager or designee shall have the authority to make regulations concerning
255 the days of collection, type and location of collection containers and other such matters

256 pertaining to the storage, collection, conveyance and disposal as necessary and to change or
257 modify the same after reasonable notice to affected persons.

258 (b) The city manager or designee is responsible for the enforcement of regulations
259 regarding storage, collection, conveyance and disposal of all solid waste and ~~recyclable~~
260 recovered materials generated within the city, including accumulations of same that may be in
261 violation of this article or other solid waste regulations. A notification of violation will be
262 provided and correction of the violation shall be made in the time specified by the notice;
263 however, failing correction, the city is hereby authorized to collect and dispose of the material
264 causing the violation and to bill the customer or owner of record of the property for the cost of
265 providing this additional collection and disposal service.

266 (c) The city manager or designee will be responsible for posting the current list of
267 designated recycling materials on the city website.

268 **Sec. 27-75. - Commercial service and commercially-collected residential service.**

269 (a) *Provided:* Commercial service shall be provided by collectors authorized to provide
270 such service under a franchise with the city to persons that do not qualify to receive residential
271 service. Collection of designated recyclable materials shall be provided by registrants, including
272 franchisees who are registrants.

273 (b) *Collection frequency and method:* Each ~~€~~commercial generators or commercially-
274 collected residential service customers shall enter into an agreement with a franchisee of the city
275 for the frequency and method of refuse collection except where landlords provide service
276 through a franchisee or generators reach a dumpster sharing arrangement with an immediately
277 adjacent or nearby generator. If a commercial generator or commercially-collected residential
278 service customer has a dumpster sharing arrangement with a nearby generator, proof of such an



279 arrangement shall be submitted to the city and is subject to approval by the public works director
280 or designee. Failure to submit proof of such an arrangement and obtain approval will subject the
281 commercial generator or commercially-collected residential service customer to code
282 enforcement proceedings. Such service shall be received no less than one time per week with no
283 exception for holidays, except that collection service scheduled to occur on a holiday may be
284 rescheduled with written notice to the customer as long as minimum frequency is met. Collection
285 service provided to compactors is exempt from this minimum frequency. Commercially-
286 collected residential service not serviced by a compacting dumpster shall receive a minimum of
287 twice per week service. Alcoholic beverage establishments, grocery stores, and restaurants not
288 serviced by a compacting dumpster shall receive a minimum of four (4) times per week service.
289 When necessary to protect the public health or to enforce the purpose of this article, the city
290 manager or designee shall have the authority to stipulate the frequency of collection or require
291 the implementation of a plan to eliminate the hazard. Service shall consist of the mechanical
292 dumping of commercial containers capable of being unloaded by proper equipment; or a manual
293 hand service dumping of containers located at agreed upon sites upon the property; or other
294 levels of service as may be required or agreed to. If the franchisee fails to perform collection
295 according to the contract, the customer shall have 30 days from the first such failure to enter into
296 an agreement with another franchisee before being cited for violation of this subsection.

297 (c) *Preparation and storage.* ~~Storage~~ Collection containers shall be drained of free
298 liquids prior to accumulation for collection. Storage areas and areas adjacent to the storage area
299 shall be maintained by the customer in a neat, sanitary and sightly manner. Customers are
300 responsible for maintaining the accessibility to storage containers or areas. If pickups are missed
301 due to customer's failure to maintain accessibility, and unsanitary or unsightly conditions result,

302 the customer shall be in violation of this article. All ~~storage~~ collection containers that are to be
303 picked up by collection trucks must be approved by the city as meeting acceptable standards
304 established by the city. Readily apparent damage to storage areas or container enclosures, normal
305 wear and tear excepted, caused by the collector driver shall be reported by the driver to the
306 customer prior to leaving the collection area if the business or management office is open and if
307 not, by radio to the contractor's office, and personnel from the office will then contact the
308 customer at the earliest possible time.

309 (d) *Commercial service containers.* The following commercial service container
310 standards are guidelines under which the owners of containers, as well as the lessees of
311 containers, will conform in order to ensure a healthy and aesthetically pleasing environment for
312 the citizens of the city:

313 (1) Each container ~~must~~ shall be kept painted in good condition at all times, unless the
314 container is made of aluminum, stainless steel, plastic or other similar materials that do not
315 readily accept painting.

316 (2) Every container ~~will~~ shall be clearly marked on the front of the container with the
317 following information:

318 a. A serial or property control number;

319 b. "NO PARKING," "UNAUTHORIZED ENTRY OR USE PROHIBITED," AND
320 "DEPOSITING OF FLAMMABLE LIQUIDS OR EXPLOSIVES PROHIBITED" labeled
321 conspicuously across its front.

322 c. By October 1, 2022, every solid waste commercial service container, except for
323 construction and demolition debris collection containers, shall follow the City's approved color
324 and educational labeling format as set forth in regulations maintained on file with the solid waste

325 department. Labeling graphics and suggested text will be supplied by the City at no cost to
326 commercial service providers operating within the City. The city manager or designee may
327 waive the educational labeling requirements of this section if it is determined to be in the best
328 interest of the city.

329 (3) Every recovered materials container shall be clearly and conspicuously labeled across the
330 front of the container with the following information:

331 a. “RECYCLING”, “RECYCLING ONLY” or “RECYCLE HERE”.

332 b. “NO GARBAGE”.

333 c. List of designated recyclable materials accepted in that container, such as
334 “CARDBOARD ONLY,” that is texted-based, image-based or a combination of text
335 and images.

336 d. Educational labeling shall be:

337 i. Clearly and conspicuously placed on and consist of at least twenty-five
338 (25) percent of the area of the front loading side of dumpsters or cart lids;

339 ii. Printed in both the English and Spanish language.

340 (4) Every organic materials container shall be clearly and conspicuously labeled across the
341 front of the container with the following information:

342 a. “YARD WASTE ONLY”, “COMPOST ONLY” or “FOOD WASTE ONLY”.

343 b. “NO GARBAGE”.

344 c. List of organic materials accepted in that container that is texted-based, image-based
345 or a combination of text and images.

346 d. Educational labeling shall be:

- 347 i. Clearly and conspicuously placed on and consist of at least twenty-five
348 (25) percent of the area of the front loading side of dumpsters or cart lids;
349 ii. Printed in both the English and Spanish language.

350 (36) Each container ~~must~~ shall be free of rust holes, broken hinges or broken door fasteners
351 and will have solid substantial bottoms with at least one drain hole for purposes of cleanout.

352 (47) All necessary containers ~~will~~ shall have properly fitting lids and or side door(s) in place
353 that close automatically when lifted and that will prevent the entry of rodents, snakes and other
354 animals, and allow for opening and closing action during the emptying cycle. Containers used for
355 storage of materials other than garbage must meet the same criteria, ~~except that lids~~ Lids or
356 covers may not be required if the city manager or designee determines that it does not pose a
357 threat to the health, welfare or safety of the citizens, or cleanliness of the container site or
358 adjacent community.

359 (§ 8) Containers at commercial locations are not to be filled to a height exceeding the level of
360 the highest portion of the container body or rim. This limitation applies to dumpsters, cans, bins
361 or any other method employed for storage. Customers must arrange for items such as furniture,
362 appliances, construction and demolition debris or any material not considered a part of the
363 customer's normal collection service to be picked up within seven days of being placed for
364 collection. If these items are not picked up within seven days of being placed for collection, the
365 city manager or designee may provide notice to the customer by hand delivery or certified mail,
366 return receipt requested. If the customer has not removed the refuse within 24 hours after
367 notification by the city, the city manager or designee may order such removal and all costs
368 incurred shall be placed against the customer's utility account. At no time will any solid waste or

369 storage containers be placed on the travel portions of any walk, street or alley within the city
370 without prior authorization from the city manager or designee.

371 (6 9) The city waste control inspector shall notify the owners and/or lessees of containers not
372 maintained in a condition of good repair or in violation of any provision of this section either by
373 hand delivery of such notice or by sending notice by certified mail, return receipt requested and
374 shall also post a notice in a conspicuous place on the premises. After notice is given in writing,
375 the owner and/or lessee will have 24 hours in which to repair or replace any container that is a
376 hazard during the unloading cycle and seven working days in which to repair or replace all other
377 violations.

378 **Sec. 27-76. - Residential service.**

379 (a) *Provided.* Residential service shall consist of curbside collection of all garbage and
380 designed recyclable materials ~~household trash~~, and an optional service of backyard collection of
381 garbage and designated recyclable materials ~~household trash~~.

382 (b) *Preparation, storage, placement for collection.*

383 (1) *Garbage and household trash:*

384 a. Each dwelling unit qualifying for residential service in the city shall be
385 assigned a serial-numbered cart of the size requested by the occupant of the
386 unit, or, if no size request is received, of the size determined by the city
387 manager or designee. The occupant may exchange the cart for another of
388 different size upon paying the fee as listed in Appendix A. Damaged and stolen
389 carts will be replaced on request.

390 b. All garbage and household trash shall be drained of free liquids and stored for
391 collection in the assigned cart, or in pre-paid garbage disposal bags, as

392 accumulated. The cart shall not be filled above a height allowing the attached
393 lid to be completely closed, nor shall the bags be filled such that they cannot be
394 securely fastened shut or weigh over 40 pounds. The bags may be placed inside
395 non-disposable containers. The assigned cart and the pre-paid garbage disposal
396 bags shall be placed at the curb or roadside no earlier than 5:00 p.m. on the day
397 preceding the scheduled collection day, and the emptied carts and non-
398 disposable containers shall be removed from the curbside location not later
399 than 9:00 p.m. of the day of collection. The carts and non-disposable containers
400 shall be removed and kept, except during the hours permitted by this section
401 for the placement of them for collection, at a location where they are not
402 clearly visible from any public street. It shall be unlawful and punishable as
403 provided for any owner or occupant to place, permit the placing of or allow the
404 continued location of ~~garbage and household trash~~ collection containers in any
405 location or at any times not provided for in this subsection. Garbage and
406 household trash placed in containers other than the assigned cart or pre-paid
407 approved garbage disposal bags will not be collected. Non-disposable or
408 reusable containers intended not to be picked up by the collectors shall be
409 clearly and appropriately identified. Anyone placing garbage or household
410 trash in containers other than the assigned cart or pre-paid garbage disposal
411 bags will be in violation of this article.

412 c. Any container, other than the assigned cart, that is allowed to remain at
413 curbside or roadside at times other than those permitted by this section, and
414 any container, other than the assigned cart, that has become damaged or

415 deteriorated, may be impounded by the city. The owner of any such container
416 so impounded shall be notified immediately in writing by the city by mail to
417 the address where picked up or by placing a notice thereof in a conspicuous
418 place on such premises, or both. The owner may redeem such impounded
419 containers within 30 days after the same are impounded by the city by paying
420 the charges in accordance with the schedule set out in Appendix A. Any
421 container not redeemed within the 30-day period may be used by the city in
422 any manner as the city may determine in furtherance of the waste control
423 program or may be sold to the highest bidder at a noticed public sale for each,
424 which cash shall be deposited in the general fund of the city.

425 (2) *Yard ~~trash~~ waste*. Yard ~~trash~~ waste that is properly bundled or containerized in such
426 manner to enable one person to lift the trash in a single lifting movement to place
427 same in the compaction truck, and which bundles or containers do not exceed 40
428 pounds in weight and five feet in length, will be collected at curb or roadside. If tree
429 or shrubbery trimmings are not containerized they may be placed at curbside in a
430 compact pile not containing any items exceeding 40 pounds in weight and five feet
431 in length and will be picked up. Grass, leaves and pine straw must be containerized
432 by either using disposable or reusable containers, and will be collected if properly
433 placed for collection at curb or roadside. Non-disposable or reusable containers
434 intended not to be picked up by the collectors shall be clearly and appropriately
435 identified. Concrete, dirt, bricks, appliances, furniture or similar items are not
436 considered yard ~~trash~~ waste, and will not be collected except by special service as
437 described in section 27-77.

438 (3) Recycling Container ~~Bin provided~~. Each dwelling unit shall be provided a ~~bin~~
439 container for the purpose of storage and disposal of designated recyclable materials.
440 Designated ~~R~~recyclable materials that meet the requirements set forth by the city
441 manager or designee shall be collected from curb or roadside. Designated
442 ~~R~~recyclable materials not fitting in the bin may be placed in non-disposable
443 containers or paper bags and will be collected at curb or roadside.

444 (c) *Responsibility for scattered garbage or trash.* Customers are responsible for the cleanup from
445 bags torn or cans spilled by animals, or otherwise spilled through no fault of the collectors.
446 Collectors are not required to sweep, fork, shovel or otherwise clean up trash or garbage that
447 has become scattered or is otherwise not readily picked up and placed in the compaction
448 truck, including spillage resulting from overloaded containers.

449 (d) *Backyard option and service fee exception.* The residential service program will allow
450 customers the option of requesting backyard collection. (This does not include yard ~~trash~~
451 waste.) Such requests must be made in writing to the city manager or designee 30 days in
452 advance of the start of service and once requested, such service and associated fees shall
453 remain in effect for a minimum of six months. Service charges for backyard service as
454 specified in the schedule set out in Appendix A may be waived and the uniform curbside
455 service charge applied where all occupants of the dwelling unit are physically ~~incapacitated~~
456 ~~and~~ unable to transport their cart and bin to the curb. Customers desiring backyard service at
457 the curbside rate must be certified as to the necessity for this service by the city manager or
458 designee who may impose such reasonable conditions as may be required for such service
459 and certification.

460 (e) *Service charges*. In order to cover the direct cost, including but not limited to inspecting,
461 billing, collecting, handling, hauling and disposal of solid waste, yard ~~trash~~ waste and
462 designated recyclable materials, and indirect cost, including but not limited to administration,
463 accounting, personnel, purchasing, legal and other staff or departmental services, service
464 charges in accordance with the schedule set out in Appendix A shall be paid monthly to the
465 city, which charge shall be included on the regular monthly statement for utility service.

466 (f) *Residential service exclusion*.

467 (1) Owners of buildings containing two to four residential dwelling units may petition
468 the city to be excluded from residential service and allowed to contract for
469 commercially-collected residential service.

470 (2) Petitions for exclusion shall be made to the city manager or designee.

471 (3) Petitions shall be made on city-provided forms, and shall contain the following
472 information:

473 a. Applicant's name.

474 b. Address of the property proposed to be excluded and number of dwelling units.

475 c. A copy of the proposed service agreement between the applicant and a
476 franchised commercial provider, including the level and type of services to be
477 provided and the number of dwelling units to be served.

478 (4) Upon receipt of a properly executed application and verification of the supporting
479 documentation, the city manager or designee shall decide whether to grant the
480 exclusion based on the following criteria:

481 a. Collection history (whether commercial or residential)

482 b. Accessibility of collection vehicles to property.

483 c. Available space for placement of carts.

484 d. Predominant use of property.

485 e. Safety.

486 f. Level of service requested by residents.

487 (5) The city manager or designee shall notify the applicant in writing of the decision.

488 (6) If the exclusion is approved, it shall be effective until terminated. ~~from the date~~
489 ~~specified by the city manager or designee until September 30, 2004, unless An~~
490 exclusion may be terminated earlier by the city manager or designee, or at the request
491 of the property owner, due to changes in the contract between the city and its solid
492 waste collector or change in circumstances concerning the property.

493 ~~(7) If the exclusion is approved, the applicant must contract for recycling service~~
494 ~~specified in section 27-85.~~

495 **Sec. 27-77. - Special service.**

496 (a) *Described.* Any waste which, by reason of its bulk, shape or weight, cannot be placed
497 in a container or bundled, or which exceeds the size and weight limitations of any section of this
498 article, will be collected and disposed of by the contractor on an on-call basis.

499 (b) *Scheduling and rates.* Special collection will be scheduled at the earliest reasonable
500 time by the contractor. The fee for special service collection and disposal will be arranged
501 between the customer and the contractor. The contractor will bill directly for such services and
502 collect a reasonable fee agreed to jointly by the contractor and the customer prior to the work
503 being performed.

504 **Sec. 27-78. - Reserved.**

505 **DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION**

506 **DEBRIS FRANCHISE**

507 **Sec. 27-79. - General provisions.**

508 (a) It shall be unlawful to commence or engage in the business of providing containers
509 for commercial service or providing commercial service or construction and demolition debris
510 collection and disposal to properties in the city without a franchise issued by the city in
511 accordance with this article.

512 (b) No franchise shall be awarded until the city determines that the franchisee is capable
513 of complying with the requirements of this article.

514 (c) Each franchise shall be subject to the charter of the city and this Code of Ordinances.
515 Each franchise shall be subject to, and franchisees shall abide by, all present and future laws,
516 regulations, orders of regulatory bodies, city code provisions and administrative rules applicable
517 to the performance of the collection services hereunder. Each franchise shall obtain all licenses
518 and permits presently required by federal, state and local governments, and as required from time
519 to time.

520 (d) All commercial franchises issued on or after October 1, 1996, may be by contract,
521 which may include, among other things, agreement on the disposal site for solid waste collected
522 by the franchisee.

523 (e) Collection times shall be as follows:

524 (1) Each commercial franchisee shall make available daily (~~except Sunday~~)
525 collection of solid waste. Collection shall begin no earlier than 6:00 a.m. and shall
526 cease no later than 9:00 p.m., Monday through Saturday, except that in areas of
527 mixed residential and commercial occupancy collections shall begin no earlier than

528 7:00 a.m. and cease no later than 9:00 p.m., Monday through Saturday. Sunday
529 service shall not begin before 8:00 am and cease no later than 9:00 p.m.

530 (2) Notwithstanding paragraph (e)(1), the city manager or designee may set
531 other hours for the purpose of improving collection operations or safety, by the city
532 first holding a neighborhood workshop to inform various residents, businesses and
533 other stakeholders of the change being considered, and to solicit their input. The
534 workshop will be held in a location generally near the subject area in a facility that
535 is ADA compliant. The city will provide notification by mail to all owners of
536 property and neighborhood associations within the area being considered as well as
537 those within 400 feet of the perimeter of that area. The notices will be mailed at
538 least 14 days before the workshop and the city will also advertise the workshop in a
539 newspaper of general circulation at least 14 days before the date of the workshop.
540 The workshop must start between 6:00 p.m. and 8:00 p.m. on a weekday or between
541 9:00 a.m. and 5:00 p.m. on a weekend. The city shall prepare a written summary of
542 the neighborhood meeting that includes a list of those in attendance, a summary of
543 the issues discussed, and comments, concerns and suggestions by those in
544 attendance. Any change in collection times shall be established in a written
545 memorandum outlining the justification. All memoranda establishing collection
546 times, and summaries of the neighborhood meetings, shall be retained on file by the
547 solid waste division and made available to the public for inspection. These
548 collection times should be reviewed periodically to determine whether the
549 operational justification continues to exist.

550 (3) ~~Notwithstanding paragraph (e)(1), the city manager or designee may~~
551 ~~authorize collection on Sunday where special needs of the customer make it~~
552 ~~necessary.~~ In the event of an emergency, a franchisee may collect at times not
553 allowed by this section, provided the city manager grants prior approval, to be later
554 evidenced by a written memorandum. If no written memorandum is obtained, there
555 shall be a presumption that the franchisee had not obtained prior approval. All
556 written memoranda issued shall be retained on file by the solid waste division and
557 made available to the public for inspection.

558 (f) Franchisee shall not be relieved of the obligation to promptly comply with any
559 provision of the franchise by failure of the city to enforce compliance with the franchise.

560 (g) The franchise granted hereunder ~~may shall not~~ be exclusive. Any exclusive franchise
561 granted by the city shall be selected through a competitive procurement process. The city
562 reserves the right to grant similar rights or franchises to more than one person or corporation as
563 well as the right in its own name to use its streets for purposes similar to or different from those
564 allowed to franchisees hereunder.

565 ~~(h) For all contracts between customers and commercial franchisees as of January 1,~~
566 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~
567 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~
568 ~~recycling program.~~

569 (i h) If a franchisee fails to perform its contract with any customer for longer than two
570 weeks, the city may perform the work using its own equipment or assign the work to another
571 franchisee, who shall be entitled to receive the revenue from the customer for work performed
572 that would have gone to the defaulting franchisee.

573 (~~j~~ i) The franchisee shall submit to any load inspection program that the city may
574 reasonably devise.

575 (~~k~~ j) Yard waste from a commercial generator or customer shall be collected separately
576 from other solid waste. Each commercial franchisee shall inform all of its commercial customers
577 of this requirement.

578 (~~l~~ k) A commercial franchisee shall respond to and, if feasible, resolve all complaints
579 received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to
580 and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00
581 noon the next day. An emergency telephone number where the commercial franchisee can be
582 reached shall be given to the city manager or designee.

583 (~~m~~ l) A commercial franchisee shall handle commercial service containers with
584 reasonable care and return them to the approximate location from which they were collected. A
585 commercial franchisee shall clean up all solid waste spilled during the collection operation.

586 (~~n~~ m) A commercial franchisee shall not be required to provide collection services when
587 all appropriate disposal sites are closed or an emergency or imminent emergency exists, as
588 determined by the city manager or designee. Collections shall resume on the instruction of the
589 city manager or designee.

590 (~~o~~ n) A commercial franchisee shall not be deemed to be an agent of the city and shall be
591 responsible for any losses or damages of any kind arising from its performance or
592 nonperformance under its franchise. The franchisee shall defend at its own expense or reimburse
593 the city for its defense, at the city's option, on any and all claims and suits brought against the
594 city, its elected or appointed officers, employees, and agents resulting from the franchisee's
595 performance or nonperformance of service pursuant to the franchise.

596 (~~p~~ o) Each commercial franchisee shall report to the city by December 15 of each year the
597 percentage participation of its clients in commercial recycling and the amount of recycled
598 material collected as a percentage of total solid waste collected from its customers for the year
599 ending September 30.

600 (~~q~~ p) Each franchisee must provide the city with the location of the disposal site it uses
601 for construction and demolition debris.

602 (~~r~~ q) In order to ensure that the franchisee provides a quality level of solid waste and
603 recycling collection services, the following standards and fines are set.

604 (1) All complaints received by the city and reported to the franchisee shall be
605 promptly resolved. Any complaint received by the franchisee shall be entered on a
606 form approved by the city. All complaints received during the business day shall be
607 transmitted on the approved form by 5:00 p.m. each business day. Any complaint
608 received before noon shall be resolved the same business day. All other complaints
609 shall be resolved by the end of the next business day.

610 (2) In the event legitimate complaints shall exceed two percent of the total
611 customers served by the franchisee during any city fiscal year, or 0.5 percent of the
612 total customers serviced by the franchisee during any calendar month, the city may
613 seek fines for the following violation of this article, on a per incident basis, when
614 committed by the franchisee:

615 a. Commingling solid waste with vegetative waste and/or designated recyclable
616 materials.

617 b. Failure to replace damaged container within seven days of notification (48
618 hours for commercially collected residential customers).

- 619 c. Throwing of garbage cans or recycling containers.
- 620 d. Failure to transmit commercial complaint forms as specified in this
- 621 subsection.
- 622 e. Failure to repair damage to customer's property.
- 623 (3) The city may seek fines for the following violations of the article, on a per
- 624 day basis, when committed by the franchisee:
- 625 a. Failure to provide clean, safe, sanitary equipment.
- 626 b. Failure to maintain required office hours.
- 627 c. Failure to maintain proper licenses.
- 628 d. Failure to display franchisee name and phone number on equipment or
- 629 containers.
- 630 e. Failure to collect solid waste upon notification by city. Franchisee will
- 631 also be charged the cost incurred by the city if city personnel are required
- 632 to collect the solid waste due to such failure.
- 633 f. Using improper truck to service commercial or commercially collected
- 634 residential customer solid waste.
- 635 g. Failure to provide monthly recycling reports by the 30th day after each
- 636 month in the format specified by the city.
- 637 h. Collection outside hours specified in section 27-79.
- 638 i. Failure to clean up spillage of any substance required to be cleaned up
- 639 pursuant to federal, state or local laws, rules or ordinance.

640 **Sec. 27-79.1. - Term of franchise.**

641 Any ~~new non-exclusive~~ franchise issued ~~or renewal of an existing franchise~~ shall be by
642 application. The term of any ~~new or renewal~~ non-exclusive franchise shall extend until 11:59
643 p.m. on September 30 of each year unless forfeited or revoked sooner as provided herein. In any
644 year in which the city is transitioning from non-exclusive franchises to an exclusive franchise
645 system, the term of non-exclusive franchises will be month to month instead of one year. If the
646 city issues an exclusive franchise, the term of the exclusive franchise agreement shall be set forth
647 in the agreement.

648 **Sec. 27-80. - Franchise fees.**

649 (a) *Amount of fee.*

650 (1) The commercial franchisee providing commercial service shall pay as compensation to
651 the city, for the rights and benefits granted hereunder, a monthly fee as described in Appendix A.
652 For purposes of the calculation stated as Appendix A, gross revenues shall consist of all revenues
653 from the sale or lease of containers, all revenues from garbage and trash collection services, all
654 disposal billed, late fees, bad debt recoveries and other fees collected from customers, with no
655 deductions except for bad debts actually written off.

656 (2) The commercial franchisee providing construction and demolition debris collection
657 service shall pay as compensation to the city, for the rights and benefits granted hereunder, an
658 annual fee calculated based on all vehicles owned, leased, or otherwise used in construction and
659 demolition debris collection service as described in Appendix A.

660 (3) Commercial franchisees providing both commercial service and construction and
661 demolition debris collection service shall pay both fees described in subsections (1) and (2)
662 above, but shall not be required to pay the fees in Appendix A deriving from subsection (2)

663 above for vehicles which are not intended and shall never be used to haul construction and
664 demolition debris.

665 (b) Compensation payments for commercial service shall be due 20 days after the end of
666 each month, accompanied by statements of gross revenues as prescribed by the city's finance
667 department, and shall be paid directly to the city's finance department. Statements and
668 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if
669 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances
670 shall be accepted as timely if postmarked on the next succeeding workday. Compensation
671 payments for construction and demolition debris collection service shall be due on October 15 of
672 each year, and will be accepted as timely if postmarked on or before October 15, or the next
673 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.
674 Payments not received by the due date shall be assessed interest at the rate of one percent per
675 month compounded monthly from the due date.

676 (c) All amounts paid shall be subject to confirmation and recomputation by the city. An
677 acceptance of payment shall not be construed as an accord that the amount paid is, in fact, the
678 correct amount, nor shall acceptance of payment be construed as a release of any claim the city
679 may have for further or additional sums payable.

680 (d) Billing maneuvers that have the effect of reducing or avoiding the payment of
681 franchise fees are expressly prohibited and will be cause for termination of the franchise, as well
682 as punishment as provided by section 1-9.

683 (e) Payment of this franchise fee shall not exempt the commercial franchisee from the
684 payment of any other license fee, tax or charge on the business, occupation, property or income
685 of the franchisee that may be imposed by the city.

686 **Sec. 27-81. - Books, records and reporting requirements.**

687 (a) The city shall have the right to review all records maintained by a franchise providing
688 commercial service concerning its franchise on 30 days' written notice.

689 (b) Each commercial franchisee providing commercial service shall file written monthly
690 reports within 30 days after the end of each month with the city manager or designee. The report
691 shall contain an accurate statement of all receipts under the franchise from all sources, the
692 number of accounts by service level, the quantities of garbage and trash collected and the number
693 of routes for garbage and trash collection.

694 (c) Each commercial franchisee providing commercial service shall file an annual report
695 including a schedule of total gross revenues as defined in section 27-80(a). This annual report
696 shall be examined by an independent certified public accountant ("auditor") to certify that the
697 computation of gross revenue used to calculate franchise fees remitted is in accordance with the
698 terms of the franchise. The auditor's report shall state that the examination was performed in
699 accordance with professional standards established by the AICPA and shall be filed with the city
700 manager or designee within 120 days of the franchisee's year end.

701 (d) Each commercial franchisee shall submit by September 1 of each year an updated list
702 of the type, number and complete description of all equipment to be used for providing service
703 pursuant to this division. Vehicles placed into service since the preceding September 1 shall have
704 the in-service dates noted, and vehicles no longer in service shall have the retirement dates noted.
705 Commercial and demolition debris collection service franchisees will be invoiced for all net
706 increases in vehicles operating during the prior year on a prorated basis, as well as invoiced for
707 vehicles intended to be operated during the coming year.

708 **Sec. 27-82. - Application requirements.**

709 (a) Applications for a franchise shall be made to the city manager or designee on such
710 forms and in such manner as prescribed by the city. Application may be made for one or both of
711 the following types of franchise:

712 (1) Commercial limited to collection of garbage and trash from commercially-
713 collected residential dwellings and collection or processing of garbage and trash
714 from commercial generators.

715 (2) Construction and demolition limited to collection and disposal of
716 construction and demolition debris.

717 (b) Application forms will require, at a minimum, the following information and
718 supporting documents.

719 (1) If the applicant is a partnership or corporation, the name(s) and business
720 address(es) of the principal officers and stockholders and other persons having
721 financial or controlling interest in the partnership or corporation; provided,
722 however, that if the corporation is a publicly owned corporation having more than
723 25 shareholders, then only the names and business addresses of the local managing
724 officers shall be required.

725 (2) Criminal convictions, including withheld adjudication and plea of nolo
726 contendere for any felonies of the applicant if an individual, or any person having
727 any controlling interest in a firm, corporation, partnership, association or
728 organization making application, if requested by the city manager or designee.

729 (3) A statement of whether such applicant operates or has operated a solid waste
730 collection business in this or any other state or territory under a franchise, permit or

731 license; and if so, where, and whether such franchise, permit or license has ever
732 been revoked or suspended and the reasons therefor.

733 (4) Proof that corporation is in good standing in the state of corporation, if
734 applicant is a corporation, and, if not a Florida corporation, that applicant is
735 qualified to do business in the State of Florida. If applicant is other than a
736 corporation and is operating under a fictitious name, applicant shall be required to
737 submit information that such fictitious name is registered and held by applicant.

738 (5) A list of the type, number and complete description of all equipment to be
739 used by the applicant for providing service pursuant to this division. The city
740 manager or designee may conduct an inspection of all equipment utilized in
741 providing the services as outlined in the franchise to determine that the franchise
742 possesses equipment capable of providing safe and efficient services.

743 (6) The applicant shall maintain in full force and effect insurance as specified
744 herein and shall furnish a comprehensive general liability policy to the city manager
745 or designee and also file with the city manager or designee a certificate of insurance
746 for all policies written in the applicant's name. The applicant shall carry in its own
747 name a policy covering its operations in an amount not less than \$200,000.00 per
748 occurrence for bodily injury and \$200,000.00 per occurrence for property damage
749 regarding comprehensive general liability. The applicant shall carry in its own name
750 a policy covering its operation in an amount not less than \$100,000.00 per person,
751 \$200,000.00 per occurrence for bodily injury, and \$50,000.00 per occurrence for
752 property damage liability regarding automobile liability insurance. The applicant
753 shall maintain workers compensation as required by Chapter 440, Florida Statutes.

754 (7) The insurance policies shall be filed in the office of the city manager or
755 designee and shall remain on file so long as the franchisee operates a franchise.

756 (8) The applicant shall pay the city a nonrefundable application fee, as specified
757 in Appendix A, at the time application is filed.

758 **Sec. 27-83. - Denial of application; suspension or revocation of franchise; right of appeal.**

759 (a) Upon a finding of just cause, the city manager or designee shall deny a franchise in
760 the case of application for new or renewed franchises, and suspend or revoke a franchise for a
761 specified period of time in the case of previously issued franchises. Just cause shall include but
762 not be limited to a failure to meet the requirements of this article, violation of any of the
763 provisions of this article or any of the ordinances of the city, or the laws of the United States or
764 the state of Florida, the violations of which reflect unfavorably on the fitness of the holder to
765 offer solid waste collection services to the public.

766 (b) Prior to denial, suspension or revocation, the applicant or holder shall be given
767 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
768 the city manager or designee evidence as to why the franchise should not be denied, revoked or
769 suspended. The notice of intention shall be served upon the applicant or franchisee by registered
770 mail or personal service.

771 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the
772 city manager or designee may appeal the decision to the city commission. The appeal shall be
773 taken by filing written notice thereof, in duplicate, with the clerk of the commission within ten
774 days after the decision of the city manager or designee. The clerk of the commission shall notify
775 the city manager of the appeal and the city manager or designee shall forthwith transmit to the
776 clerk copies of all papers constituting the record upon which the action appealed is based. The

777 clerk of the commission shall place the appeal on the agenda of the next regularly scheduled city
778 commission meeting which is not less than ten days from the date of the filing of the appeal. The
779 city commission shall review the record and decide whether the decision of the city manager was
780 based on competent, substantial evidence. ~~If~~ the commission finds competent, substantial
781 evidence for the city manager's decision, it will uphold the manager's decision; otherwise, it will
782 reverse the manager's decision. The decision of the city commission shall constitute final
783 administrative action.

784 **Sec. 27-84. - Penalties for violation.**

785 Except as otherwise provided, any person violating or failing to comply with any of the
786 provisions of this division shall be punished as provided by section 1-9.

787 **DIVISION 3. – COMMERCIAL RECYCLING**

788 **Sec. 27-85. - Mandatory commercial recycling established.**

789 (a) Commercial generators. ~~Beginning January 1, 1997, or such later date as designated by~~
790 ~~the city manager or designee, all~~ All commercial generators ~~and generators of construction and~~
791 ~~demolition debris~~ shall separate designated recycling materials and make them available for
792 recycling. The commercial generator ~~or generator of construction and demolition debris~~ may
793 utilize a registrant, which includes a commercial franchisee who has obtained a registration, to
794 collect the recycled materials. Failure to separate the designated recyclable materials, except for
795 de minimus amounts as determined by the city manager or designee, from solid waste loads
796 delivered to a city facility, a facility under contract with the city or a solid waste container at
797 point of generation will subject the commercial generator to civil citation as provided in
798 sections 2-336 through 2-339 of this Code and may, in addition, result in a surcharge as provided
799 in subsection (ed) below.

800 (b) ~~{Notice of noncompliant status.}~~ Before a civil citation is issued, or a surcharge can
801 be imposed, the commercial generator must be issued a notice advising of its noncompliant
802 status. The notice shall provide a compliance date. If upon subsequent inspection the commercial
803 generator is still not in compliance a civil citation will be issued.

804 (c) ~~{Separation and collection or special pick-up by city.}~~ If the city undertakes the
805 separation and collection of the designated recycled materials or otherwise performs a special
806 pick-up of garbage or trash because a commercial generator fails to separate the designated
807 recyclable materials, except for de minimus amounts as determined by the city manager or
808 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
809 or a solid waste container at point of generation, the city may have it removed and any expenses
810 incurred will be included as a surcharge in the utility bill of the commercial generator.

811 (d) Appeal. A commercial establishment may appeal the imposition of a surcharge to the
812 city manager or designee within 15 calendar days of such imposition. The notice of appeal shall
813 include all information and grounds the commercial generator wants to be considered by the city
814 manager or designee as to why the surcharge should not be imposed. The manager or designee
815 shall have 15 calendar days to affirm or abate the surcharge. The determination of the manager
816 or designee shall be final.

817 (e) Commercially-collected residential. All commercially-collected residential serviced
818 units shall establish a recycling program that: ~~includes recycling of all designated recyclable~~
819 ~~materials and is convenient and accessible to the residents by January 1, 1997.~~

820 (1) includes recycling of all designated recyclable materials;

821 (2) provides a location for recycling containers that is as convenient and

822 accessible to the residents as garbage and trash collection containers. If the

823 public works director or designee determines the location of recycling
824 containers fails to meet this requirement, the public works director shall
825 determine an appropriate location on the property for recycling containers;
826 (3) provides an adequate level of service and capacity of designated recyclable
827 collection containers based on the number of residents, units, or generation at
828 the given property. If the public works director or designee determines the
829 level of service and capacity of recycling containers is inadequate, the public
830 works director shall determine an appropriate level of service and capacity of
831 recycling containers;
832 (4) prominently post and maintain one or more signs in common areas where
833 designated recyclable materials are collected or stored that specify the
834 materials accepted for recycling and the collection procedures for such
835 materials;
836 (5) distributes recycling information in printed or electronic form to each
837 occupant or unit on the property upon leasing and at least once annually and
838 within fourteen (14) days after any changes to recycling services on the
839 property;
840 (6) as of October 1, 2022, provide at least one indoor recycling storage container
841 per unit of a type and design approved by the City for tenants to easily
842 transport designated recyclable materials to a central collection area on the
843 property; and

844 (f) Location of containers. All recovered materials shall be placed in an appropriate
845 industry standard container. Where ~~garbage cans~~ carts are used, they shall be placed at the

846 ~~roadside or at such other single~~ collection point(s) as may be agreed to between the registrant and
847 the customer. All containers shall be kept in a safe, accessible location as designated or approved
848 by the city and agreed to by the registrant and customer.

849 (g) Maintenance of containers. If a registrant provides recovered material containers to its
850 customers, the registrant will be responsible for the proper maintenance of the container.
851 Customers that acquire their own containers from any other source are responsible for the proper
852 maintenance of the container, except that damage done by the registrant shall be the
853 responsibility of the registrant; and for ensuring that the container can be serviced by the
854 registrant's equipment. Any customer or registrant violating this paragraph shall be subject to a
855 civil citation as provided in chapter 2, article V, division 6.

856 (h) Proof of participation in recycling program. A commercial generator, generator of
857 construction and demolition debris or owner of a commercially-collected residential property
858 shall produce proof of a valid and current contract with a registrant or receipts for delivery of
859 recovered materials to an approved site, upon request of the city manager or designee.

860 (i) Exemptions. A commercial generator shall have the right to file a request for an
861 exemption request from the requirements within Section 27-85. The public works director or
862 designee shall grant a request for an exemption if the commercial generator demonstrates to
863 the satisfaction of the public works director or designee that the volume of designated
864 recyclable materials generated is de minimus amounts or space is not available at a given
865 property for additional container placement. Each exemption request must be completed and
866 submitted using the standardized forms provided by the city. Commercial generators shall be
867 notified in writing within sixty (60) days of whether their exemption request is granted or
868 denied.

869 **Sec. 27-86. - Registration of recovered materials collectors.**

870 (a) *Registration required.* ~~On and after October 1, 1996, no~~ No person, including a
871 commercial franchisee, shall collect, transport, convey or process recovered materials in the city
872 without a registration certificate from the city. Each commercial franchise holder ~~as of October~~
873 ~~1, 1996,~~ who desires to collect recovered materials as part of the commercial recycling program
874 shall be granted a registration certificate upon filling out an application and providing the
875 necessary documentation. No application fee will be required until such time as the commercial
876 franchise would have terminated had it not been extended by subsection 27-79.1. This
877 subsection does not prohibit the city from entering into an exclusive franchise agreement or
878 issuing exclusive certificates of registration for the collection of recovered materials from
879 residential properties or commercially-collected residential properties.

880 (b) *Application for a Recovered Material certificate.*

- 881 (1) Applications for registration shall be obtained from and returned to the
882 department of solid waste.
- 883 (2) The applicant shall state whether it is a processor, a transporter, or both.
- 884 (3) Requested information on the application shall be limited to that information
885 required by F.S. § 403.7046.
- 886 (4) The application must be accompanied by
- 887 a. a copy of state certification as required by F.S. § 403.7046;
 - 888 b. disclosure of ownership as set forth below; and
 - 889 c. proof of insurance as set forth below.

890 (c) *Renewal of registration.* The certificate of registration may be valid for five years,
891 and may be renewed up to two times upon

- 892 (1) disclosure of ownership as set forth below;
893 (2) proof of insurance as set forth below as of the time of renewal; and
894 (3) proof that the registrant is still providing service to customers.

895 (d) *Operating requirements for registrants.* Persons collecting, transporting, conveying or
896 processing recovered materials in the city shall comply with the following operating
897 requirements:

898 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a
899 notarized statement disclosing the names of its owners, general and limited partners,
900 or corporate or registered name under which it will conduct its business as
901 authorized by this article.

902 (2) *Response to complaint.* Each registrant shall be responsible for responding to
903 any and all complaints which involve registrant's actions that create a nuisance or
904 have the potential to create a nuisance. Response shall be within 24 hours of the
905 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

906 (3) *Clean-up.* A registrant shall handle recovered materials containers with
907 reasonable care and return them to the approximate location from which they were
908 collected. A registrant shall clean up all materials spilled during its collection
909 operation.

910 (4) *Emergencies.* A registrant shall not be required to provide collection services
911 when all appropriate recycling sites are closed or a city emergency or imminent
912 emergency exists, as determined by the city manager or designee. Collections shall
913 resume on the instruction of the city manager or designee.

914 (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be
915 responsible for any losses or damages of any kind arising from its performance or
916 nonperformance under its registration. The registrant shall defend at its own expense
917 or reimburse the city for its defense, at the city's option, of any and all claims and
918 suits brought against the city, its elected or appointed officers, employees, and
919 agents resulting from the registrant's performance or nonperformance of service
920 pursuant to the registration.

921 (6) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or
922 accidental release of recovered material during transport.

923 (7) *Insurance.* A registrant shall purchase and maintain the types and amounts of
924 insurance set forth below from companies authorized to do business in the State of
925 Florida. The city shall be named as an additional insured on the general liability
926 insurance if the registrant utilizes city facilities. Failure to maintain insurance shall
927 result in revocation of registration.

928 a. General liability insurance - \$500,000.00 per occurrence if the registrant
929 utilizes city facilities

930 b. Commercial motor vehicle insurance as required by F.S. Ch. 627.

931 c. Workers compensation as required by F.S. Ch. 440.

932 (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense
933 all local, state and federal franchises, certificates, permits or other authorizations
934 necessary for the conduct of its operations. A registrant and its employees, officers
935 and agents shall comply with all relevant local, state, and federal laws, rules and

936 regulations, orders and mandatory guidelines applying to the collection or
937 processing services being rendered.

938 (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be
939 deemed to be a waiver of any applicable local, state or federal law or regulation,
940 including but not limited to zoning or planning regulations, with respect to a
941 recycling operation of any kind, nor shall it create any vested right to own or
942 operate any type of recycling operation.

943 (10) *Hours of operation.* A registrant shall make available daily (except Sunday)
944 collection of designated recyclable materials. Collection shall begin no earlier than
945 6:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday, except
946 in areas of mixed residential and commercial occupancy where collections shall
947 begin no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday
948 through Saturday. The city manager or designee may authorize collection on
949 Sunday where special needs of the customer make it necessary.

950 (e) *Separation of residential and commercial materials.* Curbside collection of
951 designated recyclable materials from commercial generators shall be allowed only with
952 prior approval of the city manager or designee, when considering a request to provide
953 curbside collection, the city manager or designee shall consider the following factors:

- 954 (1) Accessibility of collection vehicles to property.
- 955 (2) Available space for placement of containers.
- 956 (3) Predominant use of property.
- 957 (4) Safety.

958 (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered
959 materials dealer that has been certified by the Florida Department of Environmental
960 Protection or subsequent responsible agency, and the city.

961 (g) *Reports.* The recovered materials registrants shall submit to the ~~city manager~~ public
962 works director or designee reports as authorized by F.S. § 403.7046, and the regulations
963 promulgated pursuant to the authority stated in statute. Within 15 days of changing
964 facilities where recovered materials is being delivered, recovered materials registrants
965 shall provide the name and location of the new facilities to the public works director or
966 designee.

967 **Sec. 27-87. - Revocation of recovered materials registration.**

968 (a) Upon a finding of just cause, the city manager or designee shall deny a registration in
969 the case of application for new or renewed registration, and suspend or revoke a registration for a
970 specified period of time in the case of previously issued registration. Just cause shall be
971 consistent and repeated violation of state or local laws, ordinances, rules, and regulations relating
972 to the applicant's or registrant's operation; or loss of state certification as a recovered materials
973 dealer.

974 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
975 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
976 the city manager or designee evidence as to why the registration should not be denied, revoked
977 or suspended. The notice of intention shall be served upon the applicant or registrant by
978 registered mail or personal service.

979 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the
980 city manager or designee may appeal the decision to the city commission. The appeal shall be

981 taken by filing written notice thereof, in duplicate, with the city clerk ~~of the commission~~ within
982 ten days after the decision of the city manager or designee. The city clerk shall inform the city
983 manager of the appeal, and the city manager or designee shall forthwith transmit to the city clerk
984 copies of all papers constituting the record upon which the action appealed is based. The city
985 clerk ~~of the commission~~ shall place the appeal on the agenda of the next regularly scheduled city
986 commission meeting which is not less than ten days from the date of the filing of the appeal. The
987 city commission shall review the record and decide whether the decision of the city manager was
988 based on competent, substantial evidence. ~~If~~ If the commission finds competent, substantial
989 evidence for the city manager's decision, it will uphold the manager's decision; otherwise, it will
990 reverse the manager's decision. The decision of the city commission shall constitute final
991 administrative action.

992 **Sec. 27-88. - Penalties for violation.**

993 Except as otherwise provided, any person violating or failing to comply with any of the
994 provisions of this division shall be punished as provided by section 1-9 of this Code of
995 Ordinances.

996 **Section 2.** A new Division 4 within Article III of Chapter 27 of the Gainesville Code of
997 Ordinances is created to read as set forth below. Except as amended herein, the remainder of
998 Chapter 27 remains in full force and effect.

999 **DIVISION 4. ~~RESERVED.~~ SINGLE-USE PLASTIC AND POLYSTYRENE**

1000 **PRODUCTS.**

1001 **Sec. 27-~~9289.~~ - Definitions.**

1002 The following words, terms and phrases, when used in this article, shall have the meanings
1003 ascribed to them in this section, except where the context clearly indicates a different meaning:

1004 Expanded polystyrene container means any plate, bowl, cup, container, lid, tray, cooler,
1005 ice chest, and similar items that are made of blown polystyrene and expanded and extruded
1006 foams that are thermoplastic petrochemical materials utilizing a styrene monomer and
1007 manufactured by fusion of polymer spheres (expandable bead foam), injection molding, foam
1008 molding and extrusion-blown molding (extruded foam polystyrene) or any other technique.

1009 Beverage Prepared food provider means a person or entity that provides food (including
1010 beverages) directly to the consumer, that is ready for immediate consumption without any further
1011 cooking, mixing, preparation, alteration or repackaging regardless of whether such food beverage
1012 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether
1013 the food beverage is provided from a building, pushcart, stand or vehicle. Prepared Food
1014 Beverage providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,
1015 delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,
1016 bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

1017 Single-use plastic food accessory means any item which is made predominantly of plastic
1018 derived from petroleum polymer or a biologically-based polymer and is provided for one-time
1019 use with prepared food (including beverages), such as utensils, chopsticks, portion cups,
1020 condiment packets, and other similar accessories. This definition excludes items that are
1021 provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and
1022 cup trays.

1023 Single-use plastic straw means a disposable tube used for the purpose of consuming
1024 beverages and intended for one-time use, which is made predominantly of plastic derived from
1025 petroleum polymer or a biologically-based polymer.

1026 *Single-use plastic stirrer* means a device that is used to mix beverages and intended for
1027 one-time use, and made predominantly of plastic derived from a petroleum polymer or a
1028 biologically based polymer.

1029 **Sec. 27-~~93~~90. - Prohibition on single-use plastic straws and single-use plastic stirrers.**

1030 (a) ~~Beverage~~ Prepared food providers shall not sell, use, offer for sale or use, or provide
1031 to any person a single-use plastic straw or single-use plastic stirrer.

1032 (1) Exceptions: Although the discontinuation of the use of single-use plastic straws
1033 and single-use plastic stirrers is strongly encouraged, this article shall not apply to
1034 the sale or use of single-use plastic straws or single-use plastic stirrers as follows:

- 1035 a. Pre-packaged beverages with a single-use plastic straw or single-use plastic
1036 stirrer that are prepared and packaged outside the city and are not altered,
1037 packaged or repackaged within the city.
- 1038 b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers
1039 that are offered for retail sale to a consumer for personal use, that are prepared
1040 and packaged outside the city and are not altered, packaged or repackaged
1041 within the city.
- 1042 c. By medical or dental facilities.
- 1043 d. By hospitals.
- 1044 e. By nursing homes or assisted living facilities.
- 1045 f. By any disabled person that requires or relies on same to consume beverages
1046 and/or food supplements.

1047 **Sec. 27-91. – Single-Use Plastic Food Accessories available upon request.**

1048 Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out
1049 or delivery, unless the single-use food accessory is specifically requested by the customer or is
1050 provided at a customer self-serve station.

1051 **Sec. 27-92. - Prohibition on use of expanded polystyrene containers on city property or city**
1052 **right-of-way.**

1053 Any person or entity that is required to obtain a permit, use agreement, or other authorization or
1054 approval to use city property or city right-of-way pursuant to Chapter 18, Article II. Park
1055 Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and Chapter 30, Article V. Use
1056 Standards, is prohibited from using expanded polystyrene containers for the permitted activity on
1057 city property or city right-of-way. This prohibition excludes the distribution of any prepackaged
1058 food that is filled and sealed in an expanded polystyrene container prior to receipt by the person
1059 or entity and it excludes raw meat or seafood that is stored in an expanded polystyrene container
1060 and sold from a refrigerated display or storage case.

1061 **Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and**
1062 **balloons.**

1063 All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or
1064 balloons. Consistent with Section 379.233, Florida Statutes, the following balloon releases are
1065 exempt from the above prohibition: (a) balloons released by a person on behalf of a
1066 governmental agency or pursuant to a governmental contract for scientific or meteorological
1067 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either
1068 biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation
1069 Commission, and which are closed by a hand-tied knot in the stem of the balloon without string,
1070 ribbon, or other attachments. The party responsible for the release shall make available evidence

1071 of the biodegradability or photodegradability of said balloons in the form of a certificate
1072 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a
1073 violation of this act.

1074 **Sec. 27-94. - Enforcement; penalties; injunctive relief.**

1075 The city may enforce this article by civil citation in accordance with chapter 2, article V, division
1076 6. In addition, persons who are not in conformity with these requirements shall be subject to
1077 appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

1078 **Section 3.** Division 5 within Article III of Chapter 27 of the Gainesville Code of
1079 Ordinances is amended to read as set forth below. Except as amended herein, the remainder of
1080 Chapter 27 remains in full force and effect.

1081 **DIVISION 5. - ~~PLASTIC STRAWS AND STIRRERS.~~ WASTE REDUCTION.**

1082 **Sec. 27-95. ~~Reserved.~~ Requirement for a take back program for prescription drugs.**

1083 All commercial generators distributing or providing prescription medicines or drugs shall
1084 provide on-site publicly accessible containers for the destruction of prescription medicines or
1085 drugs.

1086 **Sec. 27-95.1. Requirement for public recycling containers at commercial establishments.**

1087 a) Any commercial establishment providing receptacles for collecting and disposing of garbage
1088 to the public shall provide an equal number of collection receptacles for designed recyclable
1089 materials paired next to the garbage receptacle. If the commercial establishment is unable to
1090 meet the above requirement, the commercial establishment shall work with the city to
1091 develop an acceptable alternative plan for the placement of collection receptacles for
1092 designed recyclable materials on the premises. Failure to develop a plan approved by the city
1093 will subject the commercial establishment to code enforcement proceedings.

1094 b) The commercial establishment shall make designed recyclable materials collected in the
 1095 receptacles available for recycling, except for de minimus amounts as determined by the
 1096 public works director or designee. The commercial establishment may utilize a registrant,
 1097 which includes a commercial franchisee who has obtained a registration, to collect the
 1098 designated recyclable materials.

1099 **Sec. 27-95.2. Requirement for property owners to provide accommodations for solid waste**
 1100 **containers.**

1101 Property owners shall provide commercial tenants with space for commercial service containers
 1102 for garbage and recycling collection or make reasonable accommodations for shared commercial
 1103 service containers for garbage and recycling collection in a nearby location. If the property
 1104 owner is unable to meet the above requirement, the property owner shall work with the city to
 1105 develop an acceptable alternative plan for the collection of waste from the tenant. Failure to
 1106 develop a plan approved by the city will subject the property owner to code enforcement
 1107 proceedings.

1108 **Section 4.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
 1109 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
 1110 and effect.

1111 **Sec. 2-339. – Applicable codes and ordinances.**

1112 The following ordinances are enforceable by the procedures described in this division:

Division 3, Article III of Chapter 27	<u>Maintenance of containers</u>	II	\$250.00
Division 4, Article III of Chapter 27	<u>Single-use plastic and polystyrene products</u> straws and single-use plastic stirrers	II	\$250.00

1113

1114 **Section 5.** It is the intention of the City Commission that the provisions of Sections 1, 2,
1115 and 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
1116 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
1117 renumbered or relettered in order to accomplish such intentions.

1118 **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance
1119 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
1120 finding shall not affect the other provisions or application of the ordinance which can be given
1121 effect without the invalid or unconstitutional provisions or application, and to this end the
1122 provisions of this ordinance are declared severable.

1123 **Section 7.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
1124 such conflict hereby repealed.

1125 **Section 8.** This ordinance shall become effective immediately upon adoption.

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1127 **PASSED AND ADOPTED THIS ____ DAY OF _____, 2021.**

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LAUREN POE
MAYOR

ATTEST: Approved as to form and legality

OMICHELE D. GAINEY
CITY CLERK

DANIEL M. NEE
INTERIM CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2021.

1145

1146 This ordinance passed on second reading this _____ day of _____, 2021.