



29 The definitions in section 27-72 shall apply to this division. For the purpose of this division, the  
30 following additional terms are defined as follows:

31 *Applicant* shall mean a person applying to the city for a registration certificate required to  
32 collect, process, convey, or transport food waste intended for industrial uses or composting  
33 within the city for hire, remuneration, or other consideration.

34 *De minimus food waste* shall mean no more than 15 percent by volume of food waste in a  
35 solid waste load delivered to a city facility or a facility under contract with the city or in a solid  
36 waste container at point of generation; or

37 *Food* shall mean any nutritious edible substance that people eat or drink in order to  
38 sustain growth and vital processes in the body.

39 *Food waste* shall mean organic materials that are to be recovered or disposed, resulting  
40 from food production, preparation, and consumption activities of animals and humans that  
41 consists of, but not limited to, vegetables, grains, animal products and byproducts, and food  
42 soiled paper. *Food waste* does not include *food* as that term is defined in this division.

43 *Registrant* shall be a person who has made application with the city to collect, transport,  
44 convey or process food waste in the city and has subsequently received a registration certificate  
45 from the city.

46 **Sec. 27-95.4 – Commercially-collected residential food waste program.**

47 (a) All commercially-collected residential serviced properties shall:

48 (1) By June 1, 2025, include a food waste collection program. A commercially-collected  
49 residential property shall, upon request of the public works director or designee,  
50 produce proof of a valid and current contract with a food waste registrant or receipts

51 for collection and delivery of food waste materials to a food waste processing facility,  
52 unless the commercially-collected residential property is granted an exemption;

53 (2) At such time as when food waste services are made available at property, property  
54 owners are to provide at least one indoor food waste storage container per unit of a  
55 type and design approved by the city for tenants to easily transport food waste;

56 (3) Provide an appropriate industry standard container for food waste at a convenient  
57 location on the property for tenants to deposit their food waste;

58 (4) Provide a location for food waste containers that is as convenient and accessible to the  
59 residents as garbage and trash collection containers. If the public works director or  
60 designee determines the location of food waste containers fails to meet this  
61 requirement, the public works director shall determine an appropriate location on the  
62 property for the food waste containers;

63 (5) Prominently post and maintain one or more signs in common areas where food waste  
64 is collected or stored that specify the materials accepted as food waste and the  
65 collection procedures for such waste;

66 (6) Provides an adequate level of service and capacity of food waste collection containers  
67 based on the number of residents, units, or generation at the given property. If the  
68 public works director or designee determines the level of service and capacity of food  
69 waste containers is inadequate, the public works director shall determine an  
70 appropriate level of service and capacity of food waste containers;

71 (7) Distribute food waste collection information in printed or electronic form to each  
72 occupant or unit on the property upon commencement of the tenant's lease and at least

73 once annually and within fourteen (14) days after any changes to food waste services  
74 on the property;

75 (b) Maintenance of containers. If a registrant provides food waste containers to its  
76 customers, the registrant will be responsible for the proper maintenance of the container.  
77 Customers that acquire their own containers from any other source are responsible for the proper  
78 maintenance of the container, except that damage done by the registrant shall be the  
79 responsibility of the registrant; and for ensuring that the container can be serviced by the  
80 registrant's equipment. Any customer or registrant violating this paragraph shall be subject to a  
81 civil citation as provided in chapter 2, article V, division 6.

82 (c) Exemptions. A commercially-collected residential property shall have the right to  
83 file a request for an exemption request from the requirements within Section 27-95.4. The  
84 public works director or designee shall grant a request for an exemption if the commercially-  
85 collected residential property demonstrates to the satisfaction of the public works director or  
86 designee that space is not available at a given property for additional container placement or  
87 provide proof that the commercially-collected residential property is unable to comply due to  
88 lack of available service providers. Each exemption request must be completed and submitted  
89 every 6 months using forms provided by the city. Commercial generators shall be notified in  
90 writing within sixty (60) days of whether their exemption request is granted or denied.

91 **Sec. 27-95.5. - Registration of food waste collectors.**

92 (a) Registration required. No person, including a commercial franchisee, shall collect,  
93 transport, convey or process food waste intended for industrial uses or composting in the city for  
94 hire, remuneration, or other consideration without a registration certificate from the city. Each  
95 commercial franchise holder who desires to collect food waste in the city intended for industrial

96 uses or composting shall be granted a food waste registration certificate upon filling out an  
97 application and providing the necessary documentation. No application fee will be required for  
98 renewals of existing registration certificates. This subsection does not prohibit the city from  
99 entering into an exclusive franchise agreement or issuing exclusive certificates of registration for  
100 the collection of food waste materials from residential or commercial properties.

101 (b) Application for a Food Waste Collector Registration.

102 (1) Applications for registration shall be obtained from and returned to the city's  
103 Solid Waste Division.

104 (2) The applicant shall state whether it is a processor, a transporter, or both.

105 a. provide a list of facilities where material will be delivered

106 b. disclosure of ownership as set forth below; and

107 c. proof of insurance as set forth below.

108 (c) Renewal of registration. The certificate of registration shall be valid for five years,  
109 and may be renewed up to two times upon

110 (1) disclosure of ownership as set forth below;

111 (2) proof of insurance as set forth below as of the time of renewal; and

112 (3) proof that the registrant is still providing service to customers.

113 (d) Operating requirements for food waste registrants. Persons collecting, transporting,  
114 conveying food waste in the city shall comply with the following operating  
115 requirements:

116 (1) Disclosure of ownership. Each registrant shall annually provide two copies of a  
117 notarized statement disclosing the names of its owners, general and limited partners,

118 and corporate or registered name under which it will conduct its business as  
119 authorized by this article.

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

124 (3) Clean-up. A registrant shall handle food waste containers with reasonable care  
125 and return them to the approximate location from which they were collected. A  
126 registrant shall clean up all materials spilled during its collection operation.

127 (4) Emergencies. A registrant shall not be required to provide collection services  
128 when all appropriate food waste collection sites are closed or a city emergency or  
129 imminent emergency exists, as determined by the public works director or designee.  
130 Collections shall resume on the instruction of the public works director or designee.

131 (5) Non-agency. A registrant shall not be deemed an agent of the city and shall be  
132 responsible for any losses or damages of any kind arising from its performance or  
133 nonperformance under its registration. The registrant shall defend at its own expense  
134 or reimburse the city for its defense, at the city's option, of any and all claims and  
135 suits brought against the city, its elected or appointed officers, employees, and  
136 agents resulting from the registrant's performance or nonperformance of service  
137 pursuant to the registration.

138 (6) Trucks. A registrant shall use trucks that are capable of preventing spillage or  
139 accidental release of food waste during transport.

140 (7) Insurance. A registrant shall purchase and maintain the types and amounts of  
141 insurance set forth below from companies authorized to do business in the State of  
142 Florida. The city shall be named as an additional insured on the general liability  
143 insurance if the registrant utilizes city facilities for transporting, conveying, or  
144 processing. Failure to maintain insurance shall result in revocation of registration.

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

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

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

149 (8) Other laws, rules and regulations. A registrant shall procure at its own expense  
150 all local, state and federal franchises, certificates, permits or other authorizations  
151 necessary for the conduct of its food waste operations. A registrant and its  
152 employees, officers and agents shall comply with all relevant local, state, and  
153 federal laws, rules and regulations, orders and mandatory guidelines applying to the  
154 collection or processing services being rendered.

155 (9) Effect of certificate. Issuance of a registration certificate by the city shall not be  
156 deemed to be a waiver of any applicable local, state or federal law or regulation,  
157 including but not limited to zoning or planning regulations, with respect to a food  
158 waste operation of any kind, nor shall it create any vested right to own or operate  
159 any type of food waste operation.

160 (10) Hours of operation. A registrant shall make available daily (except Sunday)  
161 collection of food waste. Collection shall begin no earlier than 6:00 a.m. and shall  
162 cease no later than 9:00 p.m. Monday through Saturday, except in areas of mixed

163 residential and commercial occupancy where collections shall begin no earlier than  
164 7:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday. The  
165 public works director or designee may authorize collection on Sunday where special  
166 needs of the customer make it necessary.

167 (e) Separation of residential and commercial materials. Curbside collection of food  
168 waste from commercial generators shall be allowed only with prior approval of the  
169 public works director or designee. When considering a request to provide curbside  
170 collection, the public works director or designee shall consider the following factors:

171 (1) Accessibility of collection vehicles to property.

172 (2) Available space for placement of containers.

173 (3) Predominant use of property.

174 (4) Safety.

175 (f) Reports. The food waste registrants shall submit to the public works director or  
176 designee reports, which shall include data as to number of customers, volume of food  
177 waste collected, collection sites, and volume delivered to collection sites. Within 15  
178 days of changing facilities where food waste is being delivered, food waste registrants  
179 shall provide the name and location of the new facilities to the public works director or  
180 designee.

181 **Sec. 27-95.6. - Revocation of food waste collector registration.**

182 (a) Upon a finding of just cause, the public works director or designee shall deny a food waste  
183 collector registration in the case of application for new or renewed registration, or suspend  
184 or revoke a registration for a specified period of time in the case of previously issued  
185 registration. Just cause shall be consistent and repeated violation of state or local laws,



186 ordinances, rules, and regulations relating to the applicant's or registrant's operation; or loss  
187 of any required state certification as a food waste collector, transporter, or processor.

188 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given  
189 reasonable notice of the proposed action to be taken and shall have an opportunity to present  
190 to the public works director or designee evidence as to why the registration should not be  
191 denied, revoked or suspended. The notice shall be served upon the applicant or registrant by  
192 registered mail or personal service.

193 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public  
194 works director or designee may appeal the decision to the city commission. The appeal shall  
195 be taken by filing written notice thereof, in duplicate, with the city clerk within ten days  
196 after the decision of the public works director or designee. The city clerk shall inform the  
197 public works director of the appeal, and the public works director or designee shall  
198 forthwith transmit to the city clerk copies of all papers constituting the record upon which  
199 the action appealed is based. The city clerk shall place the appeal on the agenda of the next  
200 regularly scheduled city commission meeting which is not less than ten days from the date  
201 of the filing of the appeal. The city commission shall review the record and decide whether  
202 the decision of the public works director that there was just cause to revoke the registration  
203 was based on competent, substantial evidence. If the commission finds competent,  
204 substantial evidence for the public works director's decision that there was just cause to  
205 revoke the registration, it will uphold the manager's decision; otherwise, it will reverse the  
206 public works director's decision. The decision of the city commission shall constitute final  
207 administrative action.

208 **Sec. 27-95.7. Requirement for food waste containers at commercial establishments.**

209 a) For commercial establishments required to divert food waste, the commercial establishment  
210 shall have an equal number of collection receptacles for food waste paired next to the  
211 garbage and recycling receptacles. If the commercial establishment is unable to meet the  
212 above requirement, the commercial establishment shall work with the city to develop an  
213 acceptable alternative plan for the placement of collection receptacles for food waste on the  
214 premises. Failure to develop a plan approved by the city will subject the commercial  
215 establishment to code enforcement proceedings.

216 b) The commercial establishment shall make food waste in the receptacles available for  
217 collection. A commercial generator shall, upon request of the public works director or  
218 designee, either provide receipts for delivery of food waste to a food processing facility or  
219 produce proof of a valid and current contract with a food waste registrant.

220 **Sec. 27-95.8. Requirement for property owners to provide accommodations for food waste**  
221 **containers.**

222 Property owners shall provide commercial tenants with space for commercial service containers  
223 for food waste collection or make reasonable accommodations for shared commercial service  
224 containers for food waste collection in a nearby location. If the property owner is unable to meet  
225 the above requirement, the property owner shall work with the city to develop an acceptable  
226 alternative plan for the collection of food waste from the tenant. Failure to develop a plan  
227 approved by the city will subject the property owner to code enforcement proceedings.

228 **Sec. 27-95.9. Residential and commercially-collected residential food waste collection.**

229 Food waste collection shall be made available to all residential and commercially-collected  
230 residential customers by January 1, 2024 or later if the composting facility infrastructure or  
231 capacity is not available.

232 **Sec. 27-95.10. - Penalties for violation.**

233 The city shall enforce violations of sections 27-95.4, 27-95.5, 27-95.6, 27-95.7, and 27-95.8  
234 through code enforcement proceedings or by section 1-9 of this Code of Ordinances, unless  
235 specifically stated otherwise.

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

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

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

Division 6, Article III of Chapter 27	<u>Maintenance of food waste containers</u>	II	\$250.00
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242 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1  
243 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City  
244 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be  
245 renumbered or relettered in order to accomplish such intentions.

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

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

253 **Section 6.** This ordinance shall become effective immediately upon adoption.

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PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
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.

This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2021.