

Legislative #  
190278

ORDINANCE NO. 190278

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances, by repealing Division 4 of Article III, Chapter 27 and amending Sec. 2-339, relating to the prohibition of single-use carry out plastic bags and expanded polystyrene containers; providing directions to the codifier; providing a repealing clause; and providing an immediate effective date.

WHEREAS, notice was given as required by law that the text of the City of Gainesville Code of Ordinances be amended; and

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

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

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

Section 1. Division 4 of Article III, Chapter 27 of the Code of Ordinances is repealed in its entirety.

CHAPTER 27 - UTILITIES

ARTICLE III - SOLID WASTE DISPOSAL

~~DIVISION 4 - EXPANDED POLYSTYRENE CONTAINERS AND SINGLE-USE CARRY OUT PLASTIC BAGS~~

~~Sec. 27-89 - Definitions.~~

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

1 ~~*Food service provider* means a person or entity that provides food directly to the~~  
2 ~~consumer, regardless of whether such food is provided free of charge or sold, or whether~~  
3 ~~consumption occurs on or off premises, or whether the food is provided from a building,~~  
4 ~~pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants,~~  
5 ~~cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug~~  
6 ~~stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.~~

7 ~~*Retail establishment* means any person or entity engaged in the retail sale of goods.~~  
8 ~~Retail establishment includes any supermarket, grocery store, convenience store, shop, service~~  
9 ~~station, restaurant, farmers' market vendor, and any other sales outlet where a customer can~~  
10 ~~directly purchase goods, materials, and products.~~

11 ~~*Expanded polystyrene containers* means plates, bowls, cups, containers, lids, trays,~~  
12 ~~coolers, ice chests, food containers and all similar articles that consist of blown polystyrene~~  
13 ~~and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a~~  
14 ~~styrene monomer and processed by any number of techniques including but not limited to~~  
15 ~~fusion of polymer spheres (expandable bead foam), injection molding, foam molding and~~  
16 ~~extrusion blown molding (extruded foam polystyrene).~~

17 ~~*Single-use carry out plastic bag* means a bag provided to a customer, typically at the~~  
18 ~~point of sale or distribution, for the purpose of transporting items, which is made predominantly~~  
19 ~~of plastic derived from petroleum or a biologically based source and is intended for a single use.~~  
20 ~~This definition does not include plastic bags that are specifically designed and manufactured for~~  
21 ~~multiple reuse and meet the following criteria: i) the exterior of the bag contains highly visible~~  
22 ~~language that describes the bags' ability to be reused and recycled; and ii) are constructed of any~~

1 ~~of the following materials: (1) cloth, other washable fabric, or other durable materials whether~~  
2 ~~woven or non-woven; or (2) recyclable plastic, with a minimum thickness of 2.25 mils.~~

3 ~~*Special event permittee* means any entity or person, and their subcontractors, agents or~~  
4 ~~affiliates, who has been issued a special event permit by the City for a special event on City~~  
5 ~~property, in a City facility or in the City's right of way, for the promotion or sale of their~~  
6 ~~products and/or business.~~

7 ~~**Sec. 27-90. Prohibition on use of expanded polystyrene and single-use carry out plastic**~~  
8 ~~**bags.**~~

9 ~~(a) Food service providers and retail establishments shall not sell, use, offer for sale or~~  
10 ~~use, or provide food or beverage in expanded polystyrene containers. Food service providers~~  
11 ~~and retail establishments shall not sell, use, offer for sale or use, or provide to any person a~~  
12 ~~single-use carry out plastic bag.~~

13 ~~(1) Exceptions: Although the discontinuation of the use of expanded polystyrene~~  
14 ~~containers and single-use carry out plastic bags is strongly encouraged, this article shall not~~  
15 ~~apply to:~~

- 16 ~~a. Expanded polystyrene containers used for prepackaged food that have been filled~~  
17 ~~and sealed prior to receipt by the food service provider or retail establishment;~~  
18 ~~b. Expanded polystyrene containers used to store raw meat or seafood sold from a~~  
19 ~~butcher case or similar refrigerated display or storage case;~~  
20 ~~c. Compostable bags that (i) conform to the current ASTM D6400; (ii) are certified and~~  
21 ~~labeled as meeting the ASTM D6400 standard specification by a recognized verification~~  
22 ~~entity; and (iii) are capable of undergoing biological decomposition in a compost site~~

1 ~~such that the material breaks down into carbon dioxide, water, inorganic compounds and~~  
2 ~~biomass at a rate consistent with known compostable materials;~~

3 ~~d. Any bags without handles provided to a customer (i) to protect food or merchandise~~  
4 ~~from being damaged or contaminated by other food or merchandise, when items are~~  
5 ~~placed together in a reusable bag or recyclable bag, including produce bags; (ii) to hold~~  
6 ~~prescription medications dispensed from a pharmacy or veterinary office; (iii) that is~~  
7 ~~designed to be placed over articles of clothing on a hanger, including dry cleaning bags;~~

8 ~~(b) Special event permittees, or any vendor operating under that permittee, shall not sell,~~  
9 ~~use, provide food or drink in, or offer the use of, expanded polystyrene containers or single-use~~  
10 ~~carry out plastic bags in city facilities. Upon warning, the special event permittee or any~~  
11 ~~vendor operating under that permittee must stop use of the expanded polystyrene containers or~~  
12 ~~single-use carry out plastic bags, as applicable.~~

13 **Sec. 27-91. — Enforcement; penalties; injunctive relief.**

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

17 **Section 2.** Section 2-339 of the Gainesville Code of Ordinances is hereby amended as set  
18 forth below. Except as amended herein, the remainder of Section 2-339 remains in full force and  
19 effect Sec. 2-339. - Applicable codes and ordinances.

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

27-90	<del>Expanded polystyrene containers and single-use carry out plastic bags</del>	H \$250.00
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21  
22 **Section 3.** It is the intention of the City Commission that Ordinance No. 170487 and

1 Ordinance No. 190114 (which adopted the code language set forth in Section 1 of this ordinance)  
2 are hereby repealed and that the sections and paragraphs of the Code of Ordinances may be  
3 renumbered or relettered in order to accomplish such intentions.

4 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of  
5 such conflict hereby repealed.

6 **Section 5.** This ordinance shall become effective immediately upon adoption.

7 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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9  
10 \_\_\_\_\_  
11 LAUREN POE  
12 MAYOR

13 Attest:

Approved as to form and legality:

14  
15  
16 \_\_\_\_\_  
17 OMICHELE D. GAINES  
18 CLERK OF THE COMMISSION

19 \_\_\_\_\_  
20 NICOLLE M. SHALLEY  
21 CITY ATTORNEY

22 This ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

