

1 **ORDINANCE NO. 080481**
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4 **An ordinance of the City of Gainesville, Florida, amending**
5 **section 27-85 of the City of Gainesville Code of Ordinances,**
6 **relating to mandatory commercial recycling; providing**
7 **authorization for the imposition of a civil citation or surcharge**
8 **against commercial generators who fail to separate recyclable**
9 **materials; providing for inclusion of the surcharge on the**
10 **utility bill; providing an appeal process; amending section 2-**
11 **339 of the Code of Ordinances relating to the civil citation**
12 **table of applicable codes and ordinances; providing directions**
13 **to the codifier; providing a severability clause; providing a**
14 **repealing clause; and providing an effective date in accordance**
15 **with the schedule provided herein.**
16

17 **WHEREAS**, at least 10 days notice has been given once by publication in a
18 newspaper of general circulation notifying the public of this proposed ordinance and of a
19 public hearing to be held in the City Commission Auditorium, City Hall, City of
20 Gainesville; and

21 **WHEREAS**, the Public Hearings were held pursuant to the published notice
22 described at which hearings the parties in interest and all others had an opportunity to be
23 and were, in fact, heard.

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

26 **Section 1.** Section 27-85 of the Gainesville Code of Ordinances is amended by
27 amending subsection (a), creating new subsections (b), (c), and (d), and relettering the
28 remaining subsections, to read as follows:

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

1 (a) *Commercial generators.* Beginning January 1, 1997, or such later date as
2 designated by the city manager or designee, all commercial generators and
3 generators of construction and demolition debris shall separate designated
4 recycling materials and make them available for recycling. The
5 commercial generator or generator of construction and demolition debris
6 may utilize a registrant, which includes a commercial franchisee who has
7 obtained a registration, to collect the recycled materials. Failure to
8 separate the designated recyclable materials, except for de minimus
9 amounts as determined by the City Manager or designee, from solid waste
10 loads delivered to a city facility, a facility under contract with the city or a
11 solid waste container at point of generation will subject the commercial
12 generator to civil citation as provided in Sec 2-336 through 2-339,
13 Gainesville Code of Ordinances, and may, in addition, result in a
14 surcharge as provided in section (c) below. ~~result in surcharges against the~~
15 ~~commercial generator, or the commercial franchisee, unless the generator~~
16 ~~or commercial franchisee demonstrates to the satisfaction of the city~~
17 ~~manager or designee that it generates less than de minimus quantities of~~
18 ~~designated recyclable materials in the aggregate. The amount of the~~
19 ~~surcharge and procedures for payment and appeal shall be established by~~
20 ~~the city commission by separate resolution or regulation~~
21 (b) Before a civil citation is issued, or a surcharge can be imposed, the
22 commercial generator must be issued a notice advising of its non-
23 compliant status. The notice shall provide a compliance date. If upon

1 subsequent inspection the commercial generator is still not in compliance
2 a civil citation will be issued.

3 (c) If the City undertakes the separation and collection of the recycled
4 materials or otherwise performs a Special Pick-up of garbage or trash
5 because a commercial generator fails to separate the designated recyclable
6 materials, except for de minimus amounts as determined by the City
7 Manager or designee, from solid waste loads delivered to a city facility, a
8 facility under contract with the city or a solid waste container at point of
9 generation, the City may have it removed and any expenses incurred will
10 be included as a surcharge in the utility bill of the commercial generator.

11 (d) Appeal. A commercial establishment may appeal the imposition of a
12 surcharge to the city manager or designee within 15 calendar days of such
13 imposition. The Notice of Appeal shall include all information and
14 grounds the commercial generator wants to be considered by the city
15 manager or designee as to why the surcharge should not be imposed. The
16 manager or designee shall have 15 calendar days to affirm or abate the
17 surcharge. The determination of the manager or designee shall be final.

18 (be) *Commercially-collected residential.* All commercially-collected
19 residential units shall establish a recycling program that includes recycling
20 of all designated recyclable materials and is convenient and accessible to
21 the residents by January 1, 1997.

1 (ef) *Location of containers.* All recovered materials shall be placed in an
2 appropriate industry standard container. Where garbage cans are used,
3 they shall be placed at the roadside or at such other single collection point
4 as may be agreed to between the registrant and the customer. All
5 containers shall be kept in a safe, accessible location as designated or
6 approved by the city and agreed to by the registrant and customer.

7 (dg) *Maintenance of containers.* If a registrant provides recovered material
8 containers to its customers, the registrant will be responsible for the proper
9 maintenance of the container. Customers that acquire their own containers
10 from any other source are responsible for the proper maintenance of the
11 container, except that damage done by the registrant shall be the
12 responsibility of the registrant; and for ensuring that the container can be
13 serviced by the registrant's equipment.

14 (eh) *Proof of participation in recycling program.* A commercial generator,
15 generator of construction and demolition debris or owner of a
16 commercially-collected residential property shall produce proof of a valid
17 and current contract with a registrant or receipts for delivery of recovered
18 materials to an approved site, upon request of the city manager or
19 designee.

20 **Section 2.** Section 2-339 of the Code of Ordinances of the City of Gainesville, is
21 amended by adding the following new section to the table of applicable codes and
22 ordinances (the existing sections remain unchanged):

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

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

Section	Description	Class	Penalty
<u>27-85(a)</u>	<u>Failure to separate designated recyclable materials, except for de minimus amounts, from solid waste loads</u>	<u>II</u>	<u>\$125.00</u>

4
5 **Section 3.** It is the intention of the City Commission that the provisions of
6 Sections 1 and 2 shall become and be made a part of the Code of Ordinances of the City
7 of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
8 renumbered or relettered in order to accomplish such intentions.

9 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to
10 be invalid or unconstitutional by any court of competent jurisdiction, then said holding
11 shall in no way affect the validity of the remaining portions of this ordinance.

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

14 **Section 6.** This ordinance shall take effect immediately upon adoption.

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16 **PASSED AND ADOPTED** this 16th day of June, 2011.

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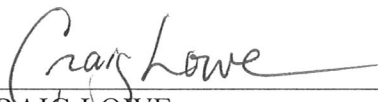
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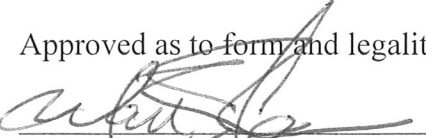
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CRAIG LOWE
MAYOR

ATTEST:


KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality


MARION J. RADSON
CITY ATTORNEY

JUN 16 2011

- 1 This Ordinance passed on first reading this 19th day of May, 2011.
- 2 This Ordinance passed on second reading this 16th day of June, 2011.