

ORDINANCE NO. 080481

An ordinance of the City of Gainesville, Florida, amending section 27-85 of the City of Gainesville Code of Ordinances, relating to mandatory commercial recycling; providing authorization for the imposition of a civil citation or surcharge against commercial generators who fail to separate recyclable materials; providing for inclusion of the surcharge on the utility bill; providing an appeal process; amending section 2-339 of the Code of Ordinances relating to the civil citation table of applicable codes and ordinances; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date in accordance with the schedule provided herein.

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

WHEREAS, the Public Hearings were held pursuant to the published notice described 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. Section 27-85 of the Gainesville Code of Ordinances is amended by amending subsection (a), creating new subsections (b), (c), and (d), and relettering the remaining subsections, to read as follows:

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

(a) Commercial generators. Beginning January 1, 1997, or such later date as designated by the city manager or designee, all commercial generators and

1 generators of construction and demolition debris shall separate designated
2 recycling materials and make them available for recycling. The
3 commercial generator or generator of construction and demolition debris
4 may utilize a registrant, which includes a commercial franchisee who has
5 obtained a registration, to collect the recycled materials. Failure to
6 separate the designated recyclable materials, except for de minimus
7 amounts as determined by the City Manager or designee, from solid waste
8 loads delivered to a city facility, a facility under contract with the city or a
9 solid waste container at point of generation will subject the commercial
10 generator to civil citation as provided in Sec 2-336 through 2-339,
11 Gainesville Code of Ordinances, and may, in addition, result in a
12 surcharge as provided in section (c) below. ~~result in surcharges against the~~
13 ~~commercial generator, or the commercial franchisee, unless the generator~~
14 ~~or commercial franchisee demonstrates to the satisfaction of the city~~
15 ~~manager or designee that it generates less than de minimus quantities of~~
16 ~~designated recyclable materials in the aggregate. The amount of the~~
17 ~~surcharge and procedures for payment and appeal shall be established by~~
18 ~~the city commission by separate resolution or regulation~~
19 (b) Before a civil citation is issued, or a surcharge can be imposed, the
20 commercial generator must be issued a notice advising of its non-
21 compliant status. The notice shall provide a compliance date. If upon
22 subsequent inspection the commercial generator is still not in compliance
23 a civil citation will be issued.

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

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

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

20 (ef) *Location of containers.* All recovered materials shall be placed in an
21 appropriate industry standard container. Where garbage cans are used,
22 they shall be placed at the roadside or at such other single collection point

1 as may be agreed to between the registrant and the customer. All
2 containers shall be kept in a safe, accessible location as designated or
3 approved by the city and agreed to by the registrant and customer.

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

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

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

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

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

DRAFT 4/20/2011

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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>

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

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

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

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

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PASSED AND ADOPTED this ____ day of _____, 2011.

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CRAIG LOWE
MAYOR

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ATTEST:

Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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This Ordinance passed on first reading this ____ day of _____, 2011.

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This Ordinance passed on second reading this ____ day of _____, 2011.