

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by creating Division 7, titled “Food Diversion”; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

WHEREAS, the City Commission finds that it is desirable to require commercial

establishments who provide food for consumption to divert food and food waste to beneficial uses, including feeding hungry people, feeding animals, industrial uses, and composting; 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 7 within Article III of Chapter 27 of the Gainesville Code of Ordinances is created to read as set forth below. Except as amended herein, the remainder of Chapter 27 remains in full force and effect.

DIVISION 7. – FOOD DIVERSION

Sec. 27-95.11. - Definitions.

The definitions in sections 27-72 and 27-95.3 shall apply to this division.

Sec. 27-95.12 - Mandatory commercial food waste diversion established.

29 (a) Beginning January 1, 2022 all commercial generators that regularly generate more than
30 one cubic yard of food or food waste per week shall divert the food or food waste from the
31 waste stream unless they are granted an exemption. Commercial generators who are required to
32 divert food or food waste under this subsection shall divert food or food waste in accordance
33 with following hierarchy:

- 34 (1) feeding hungry people;
- 35 (2) feeding animals;
- 36 (3) providing for industrial uses; and
- 37 (4) composting.

38 (b) Proof of compliance with food waste diversion ordinance. Upon request of the public
39 works director or designee, a commercial generator shall, depending on whether food or food
40 waste is diverted, provide the following as proof of compliance: 1) receipts for delivery of food
41 to a food bank or other facility that provides food to hungry people or animals, or 2) receipts for
42 delivery of food waste to a food waste processing facility, or produce proof of a valid and current
43 contract with a food waste registrant.

44 (c) Location of containers. All food waste shall be placed in an appropriate industry
45 standard container. Where carts are used, they shall be placed at such collection point(s) as may
46 be agreed to between the registrant and the customer. All containers shall be kept in a safe,
47 accessible location as designated or approved by the city and agreed to by the registrant and
48 customer.

49 (d) Maintenance of containers. If a registrant provides food waste containers to its
50 customers, the registrant will be responsible for the proper maintenance of the container.
51 Customers that acquire their own containers from any other source are responsible for the proper

52 maintenance of the container, except that damage done by the registrant shall be the
53 responsibility of the registrant; and for ensuring that the container can be serviced by the
54 registrant's equipment. Any customer or registrant violating this paragraph shall be subject to a
55 civil citation as provided in chapter 2, article V, division 6.

56 (e) Exemptions. A commercial generator shall have the right to file a request for an
57 exemption from the requirements within Section 27-95.12. The public works director or
58 designee shall grant a request for an exemption if the commercial generator demonstrates that
59 they do not generate more than one cubic yard of food waste per week, space is not available at
60 a given property for additional container placement, or the commercial generator is unable to
61 comply due to lack of available service providers. Each exemption request must be completed
62 every 6 months and submitted using forms provided by the city. Commercial generators shall
63 be notified in writing within sixty (60) days of whether their exemption request is granted or
64 denied.

65 **Sec. 27-95.13. - Penalties for violation.**

66 The city shall enforce violations of section 27-95.12 through code enforcement proceedings or
67 by section 1-9 of this Code of Ordinances.

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

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

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

Division 7, Article III of Chapter 27	<u>Maintenance of food waste containers</u>	II	\$250.00
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74 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
75 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
76 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
77 renumbered or relettered in order to accomplish such intentions.

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

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

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

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

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101 OMICHELE D. GAINEY
102 CITY CLERK

LAUREN POE
MAYOR

Approved as to form and legality

DANIEL M. NEE
INTERIM CITY ATTORNEY

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

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