

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by creating Division 6, titled “Food Waste”; 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 reduce food waste by ensuring maximum processing or recycling of food waste; and

WHEREAS, the City Commission finds that this Ordinance is necessary to achieve waste reduction goals of the city by reducing consumption as well as ensuring maximum processing or reuse of recyclable materials; 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 6 within Article III of Chapter 27 of the Gainesville Code or 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 6. – FOOD WASTE

Sec. 27-95.3. - Definitions.

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 and shall govern to the extent of a conflict with
31 the definitions in section 27-72:

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

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

38 *Food* shall mean material consisting essentially of protein, carbohydrate, and fat used in
39 the body of an organism to sustain growth and repair vital processes and to furnish energy.

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

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

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

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

49 (1) By June 1, 2024, include a food waste collection program. A commercially-collected
50 residential property shall, upon request of the public works director or designee,
51 produce proof of a valid and current contract with a food waste registrant or receipts

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

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

57 (3) Provide an appropriate industry standard container for food waste;

58 (4) Provide a location for food waste containers that is as convenient and accessible to the
59 residents as garbage and recycling collection containers. If the public works director
60 or 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) Provide 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 diversion 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 one year.

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

111 (1) All food waste shall be delivered to a food waste processing facility. Within 15
112 days of changing facilities where food waste is being delivered, food waste
113 registrants shall provide the name and location of the new facilities to the public
114 works director or designee.

115 (2) Disclosure of ownership. Each registrant shall annually provide two copies of a
116 notarized statement disclosing the names of its owners, general and limited partners,
117 and corporate or registered name under which it will conduct its business as
118 authorized by this article.

119 (3) Response to complaint. Each registrant shall be responsible for responding to
120 any and all complaints which involve registrant's actions that create a nuisance or

121 have the potential to create a nuisance. Response shall be within 24 hours of the
122 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

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

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

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

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

139 (8) *Insurance.* A registrant shall purchase and maintain the types and amounts of
140 insurance set forth below from companies authorized to do business in the State of
141 Florida. Failure to maintain insurance shall result in revocation of registration.

142 a. *General liability insurance - \$500,000.00 per occurrence if the registrant*
143 *utilizes city facilities.*

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

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

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

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

157 (11) Hours of operation. A registrant shall make available daily (except Sunday)
158 collection of food waste. Collection shall begin no earlier than 6:00 a.m. and shall
159 cease no later than 9:00 p.m. Monday through Saturday, except in areas of mixed
160 residential and commercial occupancy where collections shall begin no earlier than
161 7:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday. The
162 public works director or designee may authorize collection on Sunday where special
163 needs of the customer make it necessary.

164 (e) Separation of residential and commercial materials. Curbside collection of food
165 waste from commercial generators shall be allowed only with prior approval of the

166 public works director or designee. When considering a request to provide curbside
167 collection, the public works director or designee shall consider the following factors:

168 (1) Accessibility of collection vehicles to property.

169 (2) Available space for placement of containers.

170 (3) Predominant use of property.

171 (4) Safety.

172 (f) Reports. The food waste registrants shall submit to the public works director or
173 designee reports, which shall include data as to number of customers, volume of food
174 waste collected, collection sites, and volume of food waste delivered to collection sites.

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

176 (a) Upon a finding of just cause, the public works director or designee shall deny a food waste
177 collector registration in the case of application for a new or renewed registration, or suspend
178 or revoke a registration for a specified period of time in the case of previously issued
179 registration. Just cause shall be consistent and repeated violation of state or local laws,
180 ordinances, rules, and regulations relating to the applicant's or registrant's operation; or loss
181 of any required state certification as a food waste collector, transporter, or processor.

182 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
183 reasonable notice of the proposed action to be taken and shall have an opportunity to present
184 to the public works director or designee written and oral evidence at a hearing as to why the
185 registration should not be denied, revoked or suspended. The notice of the proposed action
186 shall be served upon the applicant or registrant by registered mail or personal service. The
187 hearing shall be held no earlier than 10 days after notice is received by the registrant.

188 Notice of the final decision of the public works director or designee shall be sent in writing
189 to the registrant.

190 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public
191 works director or designee may appeal the decision to the city manager. The appeal shall be
192 taken by filing written notice thereof, in duplicate, with the city clerk within ten days after
193 the decision of the public works director or designee. The city clerk shall inform the public
194 works director of the appeal, and the public works director or designee shall forthwith
195 transmit to the city clerk copies of all papers constituting the record upon which the action
196 appealed is based. No later than 15 days after filing the appeal, the city manager shall
197 review the record and decide whether the decision of the public works director was based on
198 competent, substantial evidence. If the city manager finds competent, substantial evidence
199 for the public works director's decision, the city manager will uphold the public works
200 director's decision; otherwise, the city manager will reverse the public works director's
201 decision. The decision of the city manager shall constitute final administrative action.

202 **Sec. 27-95.7. - Penalties for violation.**

203 The city shall enforce violations of sections 27-95.3, 27-95.4, 27-95.5, and 27-95.6 through code
204 enforcement proceedings, by section 1-9 of this Code of Ordinances, or seek injunctive relief,
205 unless specifically stated otherwise.

206 **Sec. 27-95.8. Requirement for food waste containers at commercial establishments.**

207 (a) For commercial establishments required to divert food waste, the commercial establishment
208 shall have an equal number of collection receptacles for food waste paired next to the
209 garbage and recycling receptacles. If the commercial establishment is unable to meet the
210 above requirement, the commercial establishment shall work with the city to develop an

211 acceptable alternative plan for the placement of collection receptacles for food waste on the
212 premises.

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

217 **Sec. 27-95.9. Requirement for property owners to provide accommodations for food waste**
218 **containers.**

219 Property owners shall provide commercial tenants with space for commercial service containers
220 for food waste collection or make reasonable accommodations for shared commercial service
221 containers for food waste collection in a convenient location. If the property owner is unable to
222 meet the above requirement, the property owner shall work with the city to develop an
223 acceptable alternative plan for the collection of food waste from the tenant.

224 **Sec. 27-95.10. Residential and commercially-collected residential food waste collection.**

225 Food waste collection shall be made available to all residential and commercially-collected
226 residential customers by January 1, 2024.

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

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

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

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

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

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

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

245 **PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.**

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249 _____
250 LAUREN POE
251 MAYOR

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254 ATTEST: _____ Approved as to form and legality

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257
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259 _____ DANIEL M. NEE
260 OMICHELE D. GAINEY CITY CLERK INTERIM CITY ATTORNEY

261
262 This ordinance passed on first reading this _____ day of _____, 2022.

263
264 This ordinance passed on second reading this _____ day of _____, 2022