

Legislative #

200413

**ORDINANCE NO. 200413**

**An ordinance of the City of Gainesville, Florida, amending Article III, Chapter 27, Code of Ordinances titled “Solid Waste Disposal,” to allow the City to enter into an exclusive franchise agreement for the collection of solid waste, change the term of non-exclusive commercial franchises to one month during any year in which the City is transitioning to an exclusive franchise system, and allow the City to grant exclusive certificates of registration for residential and commercially-collected residential property; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.**

**WHEREAS**, the City plans to issue a solicitation for collection of commercial property garbage and bulk waste; multi-family residential property (referred to as “commercially-collected residential service” in the Code of Ordinances) garbage, recovered materials, and bulk waste; and single-family residential property garbage and recovered materials; and

**WHEREAS**, the desired outcome of the solicitation is that the City will enter into an exclusive franchise agreement with the awarded bidder for the collection of the solid waste described above; and

**WHEREAS**, the City currently has an exclusive franchise agreement for the collection of single-family residential property garbage and recovered materials, which has been extended to allow for continued collection of single-family residential property garbage and recovered materials by the current contractor until the procurement process for an exclusive franchise agreement is completed; and

**WHEREAS**, in order for the City to issue the solicitation in compliance with the Code of Ordinances, Article III titled “Solid Waste Disposal,” Chapter 27 needs to be amended in order to allow the City to enter into an exclusive franchise agreement for the collection of commercial property garbage and bulk waste, and multi-family residential property garbage, recovered materials, and bulk waste; and

28           **WHEREAS**, in the event the City enters into an exclusive franchise agreement for the  
29 collection of solid waste, further revisions to the Code of Ordinances will be required to  
30 reconcile the definitions and terms of the exclusive franchise agreement with the Code of  
31 Ordinances; and

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

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

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

40           **Section 1.** Section 27-79(g) of Division 2, Article III, Chapter 27 of the Code of  
41 Ordinances is amended to read as follows. Except as amended herein, the remainder of Section  
42 27-79 shall remain in full force and effect.

43 **Sec. 27-79. - General provisions.**

44 (g) The franchise granted hereunder ~~may shall not~~ be exclusive. Any exclusive franchise  
45 granted by the city shall be selected through a competitive procurement process. The city  
46 reserves the right to grant similar rights or franchises to more than one person or corporation as  
47 well as the right in its own name to use its streets for purposes similar to or different from those  
48 allowed to franchisees hereunder.

49           **Section 2.** Section 27-79.1 of Division 2, Article III, Chapter 27 of the Code of  
50 Ordinances is amended to read as follows. Except as amended herein, the remainder of Section  
51 27-79.1 shall remain in full force and effect.

52 **Sec. 27-79.1. - Term of franchise.**

53           Any ~~new~~ non-exclusive franchise issued ~~or renewal of an existing franchise~~ shall be by  
54 application. The term of any ~~new or renewal~~ non-exclusive franchise shall extend until 11:59  
55 p.m. on September 30 of each year unless forfeited or revoked sooner, or be held month to  
56 month, as provided herein. In any year in which the city is transitioning from non-exclusive  
57 franchises to an exclusive franchise system, the term of non-exclusive franchises will be month  
58 to month instead of one year. If the city issues an exclusive franchise, the term of the exclusive  
59 franchise agreement shall be as set forth in the agreement.

60           **Section 3.** Section 27-86(a) of Division 3, Article III, Chapter 27 of the Code of  
61 Ordinances is amended to read as follows. Except as amended herein, the remainder of Section  
62 27-79 shall remain in full force and effect.

63 **Sec. 27-86. - Registration of recovered materials collectors.**

64 (a)   *Registration required.* ~~On and after October 1, 1996, no~~ No person, including a  
65 commercial franchisee, shall collect, transport, convey or process recovered materials  
66 in the city without a registration certificate from the city. Each commercial franchise  
67 holder ~~as of October 1, 1996,~~ who desires to collect recovered materials as part of the  
68 commercial recycling program shall be granted a registration certificate upon filling out  
69 an application and providing the necessary documentation. No application fee will be  
70 required until such time as the commercial franchise would have terminated had it not  
71 been extended by ~~subsection 27-79.1.~~ This subsection does not prohibit the city from

72 entering into an exclusive franchise agreement or issuing exclusive certificates of  
73 registration for the collection of recovered materials from residential properties or  
74 commercially-collected residential properties.

75 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1, 2,  
76 and 3 of this ordinance will become and be made a part of the Code of Ordinances of the City of  
77 Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered  
78 or relettered in order to accomplish such intentions.

79 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
80 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
81 finding will not affect the other provisions or application of the ordinance which can be given  
82 effect without the invalid or unconstitutional provisions or application, and to this end the  
83 provisions of this ordinance are declared severable.

84 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of  
85 such conflict hereby repealed.

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

87 **PASSED AND ADOPTED** this                      day of                      , 2021.

88  
89 \_\_\_\_\_  
90 LAUREN POE, MAYOR

91  
92 Attest:    Approved as to form and legality:

93  
94 \_\_\_\_\_

95 OMICHELE D. GAINNEY,  
96 CITY CLERK

DANIEL M. NEE,  
INTERIM CITY ATTORNEY

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99

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

101 This ordinance passed on second reading this day of , 2021.