

**ORDINANCE NO.**

**An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.**

**WHEREAS,**

**WHEREAS,** the City Commission finds that this Ordinance is necessary.

**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.** A new Division 4 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.

**CHAPTER 27 - UTILITIES**

**ARTICLE III – SOLID WASTE DISPOSAL**

**DIVISION 1. - GENERALLY**

**Sec. 27-71. - Purpose.**

This article is adopted to promote and protect the public health, safety and general welfare of the citizens of the city. The regulations, authority and rates established in this article are for the

29 purpose of providing a solid waste collection and disposal program at a reasonable cost and  
30 promoting recycling by both residential and commercial customers.

31 Sec. 27-72. - Definitions.

32 For the purpose of this article, the following words and terms are herewith defined:

33 Applicant shall mean

34 (a) a person applying to the city for a franchise required to provide commercial service or  
35 collect construction and demolition debris within the city for hire, remuneration or other  
36 consideration: or

37 (b) a person applying to the city for a registration certificate required to collect, process,  
38 convey or transport recovered materials within the city for hire, remuneration or other  
39 consideration.

40 *Appropriate disposal and/or recycling site* shall mean a place that is properly zoned,  
41 permitted, registered or licensed in accordance with all applicable local and state laws for the  
42 disposal of solid waste and/or the processing of recyclable materials that have been collected by  
43 commercial franchisees or registrants.

44 *Cart* shall mean a serial-numbered, two-wheeled container with attached lid and handle,  
45 available in approximately 20, 35, 65, and 95 gallon sizes, supplied and distributed by the  
46 solid waste collector.

47 *Certified recovered materials dealer* shall mean a dealer certified as provided in F.S. §  
48 403.7046.

49 *Commercial customer* shall mean any person who receives commercial service.

50 *Commercial franchisee* shall mean a person who has filed an application with, and  
51 received a franchise from, the city to provide one or more of the following services:

52 (a) commercial service;

53 (b) collection of construction and demolition debris.

54 *Commercial generator* shall mean a person who is eligible to receive commercial service  
55 under this article and who is the point of origination of solid waste or recovered materials.

56 *Commercial service* shall mean pickup of garbage and trash, but excluding hazardous  
57 waste, biomedical waste and yard trash, provided by a commercial franchisee to one of the  
58 following:

59 (1) a licensed mobile home park exceeding four dwelling units:

60 (2) multi-family residences exceeding four dwelling units under one common roof:

61 (3) any residential property that has opted-out of residential service under the terms of  
62 this article and is eligible to receive commercially collected residential service:

63 (4) business, commercial or industrial enterprises of all types licensed to do business in  
64 the city.

65 *Commercial service container* shall mean an industry-standard container constructed of  
66 non-absorbent material, with or without a cover, made for mechanized pickup.

67 ~~*Commercially-collected residential*~~ *Multifamily residential service* shall mean the  
68 collection of solid waste, other than hazardous waste and bio-medical waste, provided to persons  
69 occupying residential dwelling units in buildings with five or more dwelling units within the city  
70 and persons occupying residential dwelling units in buildings with two to four dwelling units  
71 within the city who have been allowed by the city to opt-out of curbside residential service.

72 *Compactor* shall mean any container that has a compaction mechanism.

73 *Construction and demolition debris* shall mean materials generally considered to be not  
74 water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete,

75 asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or  
76 destruction of a structure as part of a construction or demolition project, and including rocks,  
77 soils, tree remains, trees, and other vegetative matter that normally results from land clearing or  
78 land development operations for a construction project, including such debris from construction  
79 of structures at a site remote from the construction or demolition project site. Mixing of  
80 construction and demolition debris with other types of solid waste, including material from a  
81 construction or demolition site which is not from the actual construction or destruction of a  
82 structure will cause it to be classified as other than construction and demolition debris.

83 *Contractor* shall mean the firm with whom the city has contracted to provide residential  
84 service.

85 *Curbside* shall mean the designated physical location for the placement of solid waste  
86 accumulations intended for residential service collection and disposal. This designated location  
87 shall be as near as possible to the traveled streets or alley normally serviced by the contractor's  
88 collection vehicles, but in no case upon such street or alley. The intention of a curbside  
89 designation is to allow collection by waste control personnel in a rapid manner with walking or  
90 reaching minimized. In all cases, the city manager or designee shall have the authority to  
91 approve or specify the precise location for such curbside placement.

92 *Customer* shall mean the person, organization or corporation responsible for payment of  
93 all residential, commercial or commercially-collected residential services used at a specific  
94 location, and further defined as that person, organization or corporation who signed the utility  
95 application or commercial service contract requesting that services be made available at the  
96 specific location and thereby agreeing to pay for all usage of such services occurring at the  
97 location.

98 *De minimus* quantity shall mean

99 (a) no more than 15 percent cumulative total by volume of designated recyclable  
100 materials in a solid waste load delivered to a city facility or a facility under contract with the city  
101 or in a solid waste container at point of generation; or

102 (b) no more than 15 percent by volume non-putrescible and no more than five percent by  
103 volume putrescible solid waste in a recovered material container at the point of generation.

104 *Designated recyclable materials* shall mean those recyclable materials that are designated  
105 ~~in writing~~ by the city manager or designee as potential recovered materials. The city manager or  
106 designee will be responsible for posting the current list of designated recycling materials on the  
107 official city website. *Dwelling unit* shall mean a living unit, house, mobile home, apartment or  
108 building used primarily for human habitation.

109 Food waste is organic materials that are to be recovered or disposed, resulting from food  
110 production, preparation, and consumption activities of animals and humans that consists of, but  
111 not limited to, vegetables, grains, animal products and byproducts, and food soiled paper.

112 *Garbage* shall mean all putrescible waste, which generally includes, but is not limited to,  
113 kitchen and table food waste, animal, vegetable, food or any organic waste that is attendant with,  
114 or results from, the storage, preparation, cooking or handling of food materials whether attributed  
115 to residential or commercial activities.

116 *Living unit* shall mean a place where people reside on a non-transient basis, containing a  
117 room or room comprising the essential elements of a single housekeeping unit. Each separate  
118 facility for the preparation, storage and keeping of food for consumption within the premises  
119 shall be considered a separate living unit.

120 Organic materials shall mean yard trash, vegetative waste, food waste, non-recyclable  
121 paper, or other materials that have known compostable potential, can be feasibly composted  
122 and have been diverted and source separated or removed from the solid waste stream, whether  
123 or not the materials require subsequent processing or separation.

124 *Pre-paid garbage disposal bag* shall mean a plastic bag, approximately 30 gallons in  
125 size, sold by the contractor solid waste collector or by a distributor approved by the city, for use  
126 in disposing of solid waste.

127 *Person* shall mean an individual, group of persons, firm, corporation, association,  
128 organization, syndicate or business trust.

129 *Rates* shall mean those charges and fees adopted by the city commission by resolution,  
130 ordinance or contract for the management of solid waste and recovered materials, including those  
131 charges and fees collected by commercial franchisees, except those charged by registrants to  
132 commercial generators and generators of construction and demolition debris.

133 *Recovered materials* shall mean metal, paper, glass, plastic, textile or rubber materials  
134 that have known recycling potential, can be feasibly recycled and have been diverted and source  
135 separated or removed from the solid waste stream for sale, use or reuse as raw materials, whether  
136 or not the materials require subsequent processing or separation from each other, but does not  
137 include materials destined for any use that constitutes disposal. Recovered materials as described  
138 above are not solid waste.

139 *Registrant* shall be a person who has made application with the city to collect, transport,  
140 convey or process recovered materials in the city and has subsequently received a registration  
141 certificate from the city.

142           *Residential service* shall mean the solid waste collection service provided to persons  
143 occupying residential dwelling units in buildings with four or fewer dwelling units within the  
144 city.

145           *Solid waste* shall mean sludge unregulated under the federal Clean Water Act or Clean  
146 Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution  
147 control facility, or garbage, trash, special waste, or other discarded material, including solid,  
148 liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial,  
149 mining, agricultural or governmental operations. Recovered materials as defined in this article  
150 are not solid waste.

151           *Solid waste regulations* shall mean those regulations prescribed by this article along with  
152 any administrative rules, procedures and contracts as may be established for the purpose of  
153 carrying out the provisions of this article.

154           *Source separated* shall describe those recovered materials separated from solid waste  
155 (except other recovered materials or de minimus amount of solid waste) where the recovered  
156 materials and solid waste are generated.

157           *Special Event Permittee* shall mean the person or organization that applies and receives a  
158 special event permit.

159           ~~*Trash* shall mean accumulations of paper, magazines, packaging, containers, sweepings~~  
160 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~  
161 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~  
162 ~~offices and other business places~~ non-putrescible debris that is generated by households,  
163 businesses, and institutions.

164            *Yard trash* shall mean all accumulations of grass, leaves, shrubbery, vines, tree branches  
165 and trimmings which are normally associated with the care and maintenance of landscaping.

166 Sec. 27-73. - Prohibited acts.

167 It shall be unlawful for any person to do any of the following:

168 (1) To place or cause to be placed any garbage or trash upon the property of another;

169 (2) To collect or transport solid waste for hire or for remuneration or any other form of  
170 consideration without first being granted a commercial franchise except as follows:

171            (a) Commercial generators transporting their own solid waste; and

172            (b) Persons transporting their own solid waste generated by their own dwelling unit or  
173 establishment to an appropriate disposal site;

174 (3) To collect or transport construction and demolition debris for hire or for remuneration or  
175 any other form of consideration without first being granted a construction and demolition debris  
176 franchise except as follows:

177            (a) Commercial generators transporting their own debris;

178            (b) Persons secondarily providing removal of debris created as a result of other primary  
179 services performed by those persons as described in subsection (11) below. Subcontractors who  
180 provide primarily collection or transport services shall not qualify for this exemption.

181 (4) To collect, process, convey or transport recovered materials in the city without having  
182 registered with the city, except as follows:

183            (a) Persons whose primary business is freight transport that may involve the intermittent  
184 transport of recovered materials:

185            (b) Commercial generators transporting their own recovered materials; and

- 186 (c) Persons transporting their own recovered materials generated by their own dwelling  
187 unit or establishment to an appropriate recycling site:
- 188 (5) To collect recovered materials from a solid waste container used by a consumer or  
189 commercial customer receiving service from a franchisee, franchise or registrant, after the  
190 consumer or commercial customer places the container and recovered materials at the curb or  
191 designated area for collection, except as permitted by the city on an emergency interim basis as  
192 part of the city's recycling program when the city manager or designee determines that it is  
193 necessary to protect public health, safety or welfare:
- 194 (6) To allow solid waste or recovered materials to spill, blow or drop from any vehicle on  
195 any road or to transport any solid waste or recovered material over any public road unless the  
196 solid waste or recovered material is securely tied or covered so as to prevent leakage or spillage  
197 onto the road;
- 198 (7) To place or store solid waste on any property for a period in excess of one week, unless it  
199 is securely contained or covered.
- 200 (8) To deposit or dispose of any garbage or trash on the paved or traveled portion of any  
201 public street, or any alleyway, sidewalk, bike path, stream, ditch, river, pond, bay, creek, park,  
202 other right-of-way or public place in the city except at areas as may be designated by the city.
- 203 (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or  
204 landfill within the city without first obtaining the permission of the custodian thereof;
- 205 (10) To burn any garbage or trash within the city, except at designated incinerators or  
206 landfills, without first obtaining a permit from the city;

- 207 (11) To produce or accumulate any construction and demolition debris, tree branches or  
208 similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or  
209 building contractor), without removal of the same to a designated disposal area;
- 210 (12) To allow any scattered garbage or trash to remain at or near the curbside, or to fail to  
211 remove any windblown or animal scattered garbage or trash from a public area and right-of-way  
212 which have blown or otherwise scattered from the person's dwelling unit curbside collection  
213 point;
- 214 (13) To place any solid waste or recyclable materials out for collection by any alley service  
215 drive, easement or right-of-way not serviced by collection trucks;
- 216 (14) To place any solid waste or recyclable materials out for collection adjacent to the street if  
217 collection trucks service the area from an established alley;
- 218 (15) To place any solid waste or recyclable materials in an underground container for pickup;
- 219 (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of  
220 the city.
- 221 (17) To deposit any hazardous waste as defined in F.S. §403.703, in any cart or commercial  
222 service container;
- 223 (18) To place or cause to be placed any garbage, trash, recyclable materials or other solid  
224 waste in the cart or commercial service container belonging to another without proper authority;
- 225 (19) To remove any materials, without proper authority, from any container belonging to  
226 another which contains materials set out for recycling;
- 227 (20) To mix yard trash with normal solid waste loads, whether for residential or commercial  
228 service.

229 (21) To leave a garbage, trash, recovered material or food waste container cover open when  
230 not in use.

231 (22) To collect garbage, trash, recovered material or food waste a container without a properly  
232 sized or fitted cover.

233 Sec. 27-74. - City manager to make regulations; enforce article.

234 (a) The city manager or designee shall have the authority to make regulations concerning  
235 the days of collection, type and location of collection containers and other such matters  
236 pertaining to the storage, collection, conveyance and disposal as necessary and to change or  
237 modify the same after reasonable notice to affected persons.

238 (b) The city manager or designee is responsible for the enforcement of regulations  
239 regarding storage, collection, conveyance and disposal of all solid waste and recyclable materials  
240 generated within the city, including accumulations of same that may be in violation of this article  
241 or other solid waste regulations. A notification of violation will be provided and correction of the  
242 violation shall be made in the time specified by the notice; however, failing correction, the city is  
243 hereby authorized to collect and dispose of the material causing the violation and to bill the  
244 customer or owner of record of the property for the cost of providing this additional collection  
245 and disposal service.

246 Sec. 27-75. - Commercial service and multifamily residential service.

247 (a) *Provided:* Commercial service shall be provided by collectors authorized to provide  
248 such service under a franchise with the city to persons that do not qualify to receive residential  
249 service. Collection of designated recyclable materials shall be provided by registrants, including  
250 franchisees who are registrants.

251           (b) *Collection frequency and method:* ~~Each~~ ~~€~~commercial generators or ~~commercially-~~  
252 ~~collected~~ multifamily residential service customers shall enter into an agreement with a  
253 franchisee of the city for the frequency and method of refuse collection except where landlords  
254 provide service through a franchisee or generators reach a dumpster sharing arrangement with an  
255 immediately adjacent generator. Such service shall be received no less than one time per week  
256 with no exception for holidays, except that collection service scheduled to occur on a holiday  
257 may be rescheduled with written notice to the customer as long as minimum frequency is met.  
258 Collection service provided to compactors is exempt from this minimum frequency. Multifamily  
259 residential service not serviced by a compacting dumpster shall receive a minimum of twice per  
260 week service. Alcoholic beverage establishments, grocery stores, and restaurants not serviced  
261 by a compacting dumpster shall receive a minimum of four (4) times per week service. When  
262 necessary to protect the public health or to enforce the purpose of this article, the city manager or  
263 designee shall have the authority to stipulate the frequency of collection or require the  
264 implementation of a plan to eliminate the hazard. Service shall consist of the mechanical  
265 dumping of commercial containers capable of being unloaded by proper equipment; or a manual  
266 hand service dumping of containers located at agreed upon sites upon the property; or other  
267 levels of service as may be required or agreed to. If the franchisee fails to perform collection  
268 according to the contract, the customer shall have 30 days from the first such failure to enter into  
269 an agreement with another franchisee before being cited for violation of this subsection.

270           (c) *Preparation and storage.* Storage containers shall be drained of free liquids prior to  
271 accumulation for collection. Storage areas and areas adjacent to the storage area shall be  
272 maintained by the customer in a neat, sanitary and sightly manner. Customers are responsible for  
273 maintaining the accessibility to storage containers or areas. If pickups are missed due to

274 customer's failure to maintain accessibility, and unsanitary or unsightly conditions result, the  
275 customer shall be in violation of this article. All storage containers that are to be picked up by  
276 collection trucks must be approved by the city as meeting acceptable standards established by the  
277 city. Readily apparent damage to storage areas or container enclosures, normal wear and tear  
278 excepted, caused by the collector driver shall be reported by the driver to the customer prior to  
279 leaving the collection area if the business or management office is open and if not, by radio to  
280 the contractor's office, and personnel from the office will then contact the customer at the earliest  
281 possible time.

282 (d) *Commercial service containers.* The following commercial service container  
283 standards are guidelines under which the owners of containers, as well as the lessees of  
284 containers, will conform in order to ensure a healthy and aesthetically pleasing environment for  
285 the citizens of the city:

286 (1) Each container ~~must~~ shall be kept painted in good condition at all times, unless the  
287 container is made of aluminum, stainless steel or other similar materials that do not readily  
288 accept painting.

289 (2) Every container ~~will~~ shall be clearly marked on the front of the container with the  
290 following information:

291 a. A serial or property control number;

292 b. "NO PARKING," "UNAUTHORIZED ENTRY OR USE PROHIBITED," AND  
293 "DEPOSITING OF FLAMMABLE LIQUIDS OR EXPLOSIVES PROHIBITED" labeled  
294 conspicuously across its front.

295 (3) Each container ~~must~~ shall be free of rust holes, broken hinges or broken door fasteners  
296 and will have solid substantial bottoms with at least one drain hole for purposes of cleanout.

297 (4) All necessary containers ~~will~~ shall have properly fitting lids and or side door(s) in place  
298 that close automatically when lifted and that will prevent the entry of rodents, snakes and other  
299 animals, and allow for opening and closing action during the emptying cycle. Containers used for  
300 storage of materials other than garbage must meet the same criteria, except that lids or covers  
301 may not be required if the city manager or designee determines that it does not pose a threat to  
302 the health, welfare or safety of the citizens, or cleanliness of the container site or adjacent  
303 community.

304 (5) Containers at commercial locations are not to be filled to a height exceeding the level of  
305 the highest portion of the container body or rim. This limitation applies to dumpsters, cans, bins  
306 or any other method employed for storage. Customers must arrange for items such as furniture,  
307 appliances, construction and demolition debris or any material not considered a part of the  
308 customer's normal collection service to be picked up within seven days of being placed for  
309 collection. If these items are not picked up within seven days of being placed for collection, the  
310 city manager or designee may provide notice to the customer by hand delivery or certified mail,  
311 return receipt requested. If the customer has not removed the refuse within 24 hours after  
312 notification by the city, the city manager or designee may order such removal and all costs  
313 incurred shall be placed against the customer's utility account. At no time will any solid waste or  
314 storage containers be placed on the travel portions of any walk, street or alley within the city  
315 without prior authorization from the city manager or designee.

316 (6) The city waste control inspector shall notify the owners and/or lessees of containers not  
317 maintained in a condition of good repair or in violation of any provision of this section either by  
318 hand delivery of such notice or by sending notice by certified mail, return receipt requested and  
319 shall also post a notice in a conspicuous place on the premises. After notice is given in writing,

320 the owner and/or lessee will have 24 hours in which to repair or replace any container that is a  
321 hazard during the unloading cycle and seven working days in which to repair or replace all other  
322 violations.

323 (7) Every recycling materials container shall be clearly and conspicuously labeled across the  
324 front of the container with the following information:

- 325 a. “RECYCLING”, “RECYCLING ONLY” or “RECYCLE HERE”.
- 326 b. “NO GARBAGE”.
- 327 c. List of recyclable materials accepted in that container that is texted-based, image-  
328 based or combination of text and image-based.

329 (8) Every organic materials container shall be clearly and conspicuously labeled across the  
330 front of the container with the following information:

- 331 a. “YARD WASTE ONLY”, “COMPOST ONLY” or “FOOD WASTE ONLY”.
- 332 b. “NO GARBAGE”.
- 333 c. List of organic materials accepted in that container that is texted-based, image-based  
334 or combination of text and image-based.

335 Sec. 27-76. - Residential service.

336 (a) *Provided.* Residential service shall consist of curbside collection of all garbage and  
337 household trash, and an optional service of backyard collection of garbage and household trash.

338 (b) *Preparation, storage, placement for collection.*

339 (1) *Garbage and household trash:*

340 a. Each dwelling unit qualifying for residential service in the city shall be assigned a  
341 serial-numbered cart of the size requested by the occupant of the unit, or, if no size request is  
342 received, of the size determined by the city manager or designee. The occupant may exchange

343 the cart for another of different size upon paying the fee as listed in Appendix A. Damaged and  
344 stolen carts will be replaced on request.

345         b. All garbage and household trash shall be drained of free liquids and stored for  
346 collection in the assigned cart, or in pre-paid garbage disposal bags, as accumulated. The cart  
347 shall not be filled above a height allowing the attached lid to be completely closed, nor shall the  
348 bags be filled such that they cannot be securely fastened shut or weigh over 40 pounds. The bags  
349 may be placed inside non-disposable containers. The assigned cart and the pre-paid garbage  
350 disposal bags shall be placed at the curb or roadside no earlier than 5:00 p.m. on the day  
351 preceding the scheduled collection day, and the emptied carts and non-disposable containers  
352 shall be removed from the curbside location not later than 9:00 p.m. of the day of collection. The  
353 carts and non-disposable containers shall be removed and kept, except during the hours permitted  
354 by this section for the placement of them for collection, at a location where they are not clearly  
355 visible from any public street. It shall be unlawful and punishable as provided for any owner or  
356 occupant to place, permit the placing of or allow the continued location of garbage and  
357 household trash containers in any location or at any times not provided for in this subsection.  
358 Garbage and household trash placed in containers other than the assigned cart or pre-paid  
359 approved garbage disposal bags will not be collected. Non-disposable or reusable containers  
360 intended not to be picked up by the collectors shall be clearly and appropriately identified.  
361 Anyone placing garbage or household trash in containers other than the assigned cart or pre-paid  
362 garbage disposal bags will be in violation of this article.

363         c. Any container, other than the assigned cart, that is allowed to remain at curbside or  
364 roadside at times other than those permitted by this section, and any container, other than the  
365 assigned cart, that has become damaged or deteriorated, may be impounded by the city. The

366 owner of any such container so impounded shall be notified immediately in writing by the city  
367 by mail to the address where picked up or by placing a notice thereof in a conspicuous place on  
368 such premises, or both. The owner may redeem such impounded containers within 30 days after  
369 the same are impounded by the city by paying the charges in accordance with the schedule set  
370 out in Appendix A. Any container not redeemed within the 30-day period may be used by the  
371 city in any manner as the city may determine in furtherance of the waste control program or may  
372 be sold to the highest bidder at a noticed public sale for each, which cash shall be deposited in  
373 the general fund of the city.

374 (2) *Yard trash.* Yard trash that is properly bundled or containerized in such manner to enable  
375 one person to lift the trash in a single lifting movement to place same in the compaction truck,  
376 and which bundles or containers do not exceed 40 pounds in weight and five feet in length, will  
377 be collected at curb or roadside. If tree or shrubbery trimmings are not containerized they may be  
378 placed at curbside in a compact pile not containing any items exceeding 40 pounds in weight and  
379 five feet in length and will be picked up. Grass, leaves and pine straw must be containerized by  
380 either using disposable or reusable containers, and will be collected if properly placed for  
381 collection at curb or roadside. Non-disposable or reusable containers intended not to be picked  
382 up by the collectors shall be clearly and appropriately identified. Concrete, dirt, bricks,  
383 appliances, furniture or similar items are not considered yard trash, and will not be collected  
384 except by special service as described in section 27-77.

385 (3) *Bin provided.* Each dwelling unit shall be provided a bin for the purpose of storage and  
386 disposal of recyclable materials. Recyclable materials that meet the requirements set forth by the  
387 city manager or designee shall be collected from curb or roadside. Recyclable materials not

388 fitting in the bin may be placed in non-disposable containers or paper bags and will be collected  
389 at curb or roadside.

390 (c) *Responsibility for scattered garbage or trash.* Customers are responsible for the  
391 cleanup from bags torn or cans spilled by animals, or otherwise spilled through no fault of the  
392 collectors. Collectors are not required to sweep, fork, shovel or otherwise clean up trash or  
393 garbage that has become scattered or is otherwise not readily picked up and placed in the  
394 compaction truck, including spillage resulting from overloaded containers.

395 (d) *Backyard option and service fee exception.* The residential service program will allow  
396 customers the option of requesting backyard collection. (This does not include yard trash.) Such  
397 requests must be made in writing to the city manager or designee 30 days in advance of the start  
398 of service and once requested, such service and associated fees shall remain in effect for a  
399 minimum of six months. Service charges for backyard service as specified in the schedule set out  
400 in Appendix A may be waived and the uniform curbside service charge applied where all  
401 occupants of the dwelling unit are physically incapacitated and unable to transport their cart and  
402 bin to the curb. Customers desiring backyard service at the curbside rate must be certified as to  
403 the necessity for this service by the city manager or designee who may impose such reasonable  
404 conditions as may be required for such service and certification.

405 (e) *Service charges.* In order to cover the direct cost, including but not limited to  
406 inspecting, billing, collecting, handling, hauling and disposal of solid waste, yard trash and  
407 recyclable materials, and indirect cost, including but not limited to administration, accounting,  
408 personnel, purchasing, legal and other staff or departmental services, service charges in  
409 accordance with the schedule set out in Appendix A shall be paid monthly to the city, which  
410 charge shall be included on the regular monthly statement for utility service.

- 411 (f) *Residential service exclusion.*
- 412 (1) Owners of buildings containing two to four residential dwelling units may petition the  
413 city to be excluded from residential service and allowed to contract for commercially-collected  
414 residential service.
- 415 (2) Petitions for exclusion shall be made to the city manager or designee.
- 416 (3) Petitions shall be made on city-provided forms, and shall contain the following  
417 information:
- 418 a. Applicant's name.
  - 419 b. Address of the property proposed to be excluded and number of dwelling units.
  - 420 c. A copy of the proposed service agreement between the applicant and a franchised  
421 commercial provider, including the level and type of services to be provided and the number of  
422 dwelling units to be served.
- 423 (4) Upon receipt of a properly executed application and verification of the supporting  
424 documentation, the city manager or designee shall decide whether to grant the exclusion based  
425 on the following criteria:
- 426 a. Collection history (whether commercial or residential)
  - 427 b. Accessibility of collection vehicles to property.
  - 428 c. Available space for placement of carts.
  - 429 d. Predominant use of property.
  - 430 e. Safety.
  - 431 f. Level of service requested by residents.
- 432 (5) The city manager or designee shall notify the applicant in writing of the decision.

433 (6) If the exclusion is approved, it shall be effective ~~from the date specified by the city~~  
434 ~~manager or designee until September 30, 2004~~, unless terminated ~~earlier~~ by the city manager or  
435 designee, or at the request of the property owner, due to changes in the contract between the city  
436 and its solid waste collector or change in circumstances concerning the property.

437 ~~(7) If the exclusion is approved, the applicant must contract for recycling service specified~~  
438 ~~in section 27-85.~~

439 Sec. 27-77. - Special service.

440 (a) *Described.* Any waste which, by reason of its bulk, shape or weight, cannot be placed  
441 in a container or bundled, or which exceeds the size and weight limitations of any section of this  
442 article, will be collected and disposed of by the contractor on an on-call basis.

443 (b) Scheduling and rates. Special collection will be scheduled at the earliest reasonable time by  
444 the contractor. The fee for special service collection and disposal will be arranged between the  
445 customer and the contractor. The contractor will bill directly for such services and collect a  
446 reasonable fee agreed to jointly by the contractor and the customer prior to the work being  
447 performed.

448 Sec. 27-78. - Reserved.

449 DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION

450 DEBRIS FRANCHISE

451 Sec. 27-79. - General provisions.

452 (a) It shall be unlawful to commence or engage in the business of providing containers  
453 for commercial service or providing commercial service or construction and demolition debris  
454 collection and disposal to properties in the city without a franchise issued by the city in  
455 accordance with this article.

456 (b) No franchise shall be awarded until the city determines that the franchisee is capable  
457 of complying with the requirements of this article.

458 (c) Each franchise shall be subject to the charter of the city and this Code of Ordinances.  
459 Each franchise shall be subject to, and franchisees shall abide by, all present and future laws,  
460 regulations, orders of regulatory bodies, city code provisions and administrative rules applicable  
461 to the performance of the collection services hereunder. Each franchise shall obtain all licenses  
462 and permits presently required by federal, state and local governments, and as required from time  
463 to time.

464 (d) All commercial franchises issued on or after October 1, 1996, may be by contract,  
465 which may include, among other things, agreement on the disposal site for solid waste collected  
466 by the franchisee.

467 (e) Collection times shall be as follows:

468 (1) Each commercial franchisee shall make available daily (~~except Sunday~~) collection of  
469 solid waste. Collection shall begin no earlier than 6:00 a.m. and shall cease no later than 9:00  
470 p.m., Monday through Saturday, except that in areas of mixed residential and commercial  
471 occupancy collections shall begin no earlier than 7:00 a.m. and cease no later than 9:00 p.m.,  
472 Monday through Saturday. Sunday service shall not begin before 8:00 am and cease no later  
473 than 9:00 p.m.

474 (2) Notwithstanding paragraph (e)(1), the city manager or designee may set other hours for  
475 the purpose of improving collection operations or safety, by the city first holding a neighborhood  
476 workshop to inform various residents, businesses and other stakeholders of the change being  
477 considered, and to solicit their input. The workshop will be held in a location generally near the  
478 subject area in a facility that is ADA compliant. The city will provide notification by mail to all

479 owners of property and neighborhood associations within the area being considered as well as  
480 those within 400 feet of the perimeter of that area. The notices will be mailed at least 14 days  
481 before the workshop and the city will also advertise the workshop in a newspaper of general  
482 circulation at least 14 days before the date of the workshop. The workshop must start between  
483 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m. and 5:00 p.m. on a weekend. The  
484 city shall prepare a written summary of the neighborhood meeting that includes a list of those in  
485 attendance, a summary of the issues discussed, and comments, concerns and suggestions by  
486 those in attendance. Any change in collection times shall be established in a written  
487 memorandum outlining the justification. All memoranda establishing collection times, and  
488 summaries of the neighborhood meetings, shall be retained on file by the solid waste division  
489 and made available to the public for inspection. These collection times should be reviewed  
490 periodically to determine whether the operational justification continues to exist.

491 (3) ~~Notwithstanding paragraph (e)(1), the city manager or designee may authorize collection~~  
492 ~~on Sunday where special needs of the customer make it necessary.~~ In the event of an emergency,  
493 a franchisee may collect at times not allowed by this section, provided the city manager grants  
494 prior approval, to be later evidenced by a written memorandum. If no written memorandum is  
495 obtained, there shall be a presumption that the franchisee had not obtained prior approval. All  
496 written memoranda issued shall be retained on file by the solid waste division and made  
497 available to the public for inspection.

498 (f) Franchisee shall not be relieved of the obligation to promptly comply with any  
499 provision of the franchise by failure of the city to enforce compliance with the franchise.

500 (g) The franchise granted hereunder ~~shall~~ may or may not be exclusive. The city reserves  
501 the right to grant similar rights or franchises to more than one person or corporation as well as

502 the right in its own name to use its streets for purposes similar to or different from those allowed  
503 to franchisees hereunder.

504 ~~(h) For all contracts between customers and commercial franchisees as of January 1,~~  
505 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~  
506 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~  
507 ~~recycling program.~~

508 (ih) If a franchisee fails to perform its contract with any customer for longer than two  
509 weeks, the city may perform the work using its own equipment or assign the work to another  
510 franchisee, who shall be entitled to receive the revenue from the customer for work performed  
511 that would have gone to the defaulting franchisee.

512 (ji) The franchisee shall submit to any load inspection program that the city may  
513 reasonably devise.

514 (kj) Yard waste from a commercial generator or customer shall be collected separately  
515 from other solid waste. Each commercial franchisee shall inform all of its commercial customers  
516 of this requirement.

517 (k) A commercial franchisee shall respond to and, if feasible, resolve all complaints  
518 received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to  
519 and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00  
520 noon the next day. An emergency telephone number where the commercial franchisee can be  
521 reached shall be given to the city manager or designee.

522 (ml) A commercial franchisee shall handle commercial service containers with  
523 reasonable care and return them to the approximate location from which they were collected. A  
524 commercial franchisee shall clean up all solid waste spilled during the collection operation.

525           ~~(am)~~ A commercial franchisee shall not be required to provide collection services when  
526 all appropriate disposal sites are closed or an emergency or imminent emergency exists, as  
527 determined by the city manager or designee. Collections shall resume on the instruction of the  
528 city manager or designee.

529           ~~(an)~~ A commercial franchisee shall not be deemed to be an agent of the city and shall be  
530 responsible for any losses or damages of any kind arising from its performance or  
531 nonperformance under its franchise. The franchisee shall defend at its own expense or reimburse  
532 the city for its defense, at the city's option, on any and all claims and suits brought against the  
533 city, its elected or appointed officers, employees, and agents resulting from the franchisee's  
534 performance or nonperformance of service pursuant to the franchise.

535           ~~(ao)~~ Each commercial franchisee shall report to the city by December 15 of each year the  
536 percentage participation of its clients in commercial recycling and the amount of recycled  
537 material collected as a percentage of total solid waste collected from its customers for the year  
538 ending September 30.

539           ~~(ap)~~ Each franchisee must provide the city with the location of the disposal site it uses for  
540 construction and demolition debris.

541           ~~(aq)~~ In order to ensure that the franchisee provides a quality level of solid waste and  
542 recycling collection services, the following standards and fines are set.

543 (1) All complaints received by the city and reported to the franchisee shall be promptly  
544 resolved. Any complaint received by the franchisee shall be entered on a form approved by the  
545 city. All complaints received during the business day shall be transmitted on the approved form  
546 by 5:00 p.m. each business day. Any complaint received before noon shall be resolved the same  
547 business day. All other complaints shall be resolved by the end of the next business day.

548 (2) In the event legitimate complaints shall exceed two percent of the total customers served  
549 by the franchisee during any city fiscal year, or 0.5 percent of the total customers serviced by the  
550 franchisee during any calendar month, the city may seek fines for the following violation of this  
551 article, on a per incident basis, when committed by the franchisee:

- 552 a. Commingling solid waste with vegetative waste and/or recyclable materials.
- 553 b. Failure to replace damaged container within seven days of notification (48 hours for  
554 commercially collected residential customers).
- 555 c. Throwing of garbage cans or recycling containers.
- 556 d. Failure to transmit commercial complaint forms as specified in this subsection.
- 557 e. Failure to repair damage to customer's property.

558 (3) The city may seek fines for the following violations of the article, on a per day basis,  
559 when committed by the franchisee:

- 560 a. Failure to provide clean, safe, sanitary equipment.
- 561 b. Failure to maintain required office hours.
- 562 c. Failure to maintain proper licenses.
- 563 d. Failure to display franchisee name and phone number on equipment or containers.
- 564 e. Failure to collect solid waste upon notification by city. Franchisee will also be charged  
565 the cost incurred by the city if city personnel are required to collect the solid waste due to such  
566 failure.
- 567 f. Using improper truck to service commercial or commercially collected residential  
568 customer solid waste.
- 569 g. Failure to provide monthly recycling reports by the 30th day after each month in the  
570 format specified by the city.

571 h. Collection outside hours specified in section 27-79.

572 i. Failure to clean up spillage of any substance required to be cleaned up pursuant to  
573 federal, state or local laws, rules or ordinance.

574 Sec. 27-79.1. - Term of franchise.

575 Any new franchise issued or renewal of an existing franchise shall be by application. The term of  
576 any new or renewal franchise shall extend until 11:59 p.m. on September 30 of each year unless  
577 forfeited or revoked sooner as provided herein.

578 Sec. 27-80. - Franchise fees.

579 (a) *Amount of fee.*

580 (1) The commercial franchisee providing commercial service shall pay as compensation to  
581 the city, for the rights and benefits granted hereunder, a monthly fee as described in Appendix A.  
582 For purposes of the calculation stated as Appendix A, gross revenues shall consist of all revenues  
583 from the sale or lease of containers, all revenues from garbage and trash collection services, all  
584 disposal billed, late fees, bad debt recoveries and other fees collected from customers, with no  
585 deductions except for bad debts actually written off.

586 (2) The commercial franchisee providing construction and demolition debris collection  
587 service shall pay as compensation to the city, for the rights and benefits granted hereunder, an  
588 annual fee calculated based on all vehicles owned, leased, or otherwise used in construction and  
589 demolition debris collection service as described in Appendix A.

590 (3) Commercial franchisees providing both commercial service and construction and  
591 demolition debris collection service shall pay both fees described in subsections (1) and (2)  
592 above, but shall not be required to pay the fees in Appendix A deriving from subsection (2)

593 above for vehicles which are not intended and shall never be used to haul construction and  
594 demolition debris.

595 (b) Compensation payments for commercial service shall be due 20 days after the end of  
596 each month, accompanied by statements of gross revenues as prescribed by the city's finance  
597 department, and shall be paid directly to the city's finance department. Statements and  
598 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if  
599 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances  
600 shall be accepted as timely if postmarked on the next succeeding workday. Compensation  
601 payments for construction and demolition debris collection service shall be due on October 15 of  
602 each year, and will be accepted as timely if postmarked on or before October 15, or the next  
603 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.  
604 Payments not received by the due date shall be assessed interest at the rate of one percent per  
605 month compounded monthly from the due date.

606 (c) All amounts paid shall be subject to confirmation and recomputation by the city. An  
607 acceptance of payment shall not be construed as an accord that the amount paid is, in fact, the  
608 correct amount, nor shall acceptance of payment be construed as a release of any claim the city  
609 may have for further or additional sums payable.

610 (d) Billing maneuvers that have the effect of reducing or avoiding the payment of  
611 franchise fees are expressly prohibited and will be cause for termination of the franchise, as well  
612 as punishment as provided by section 1-9.

613 (e) Payment of this franchise fee shall not exempt the commercial franchisee from the  
614 payment of any other license fee, tax or charge on the business, occupation, property or income  
615 of the franchisee that may be imposed by the city.

616 Sec. 27-81. - Books, records and reporting requirements.

617 (a) The city shall have the right to review all records maintained by a franchise providing  
618 commercial service concerning its franchise on 30 days' written notice.

619 (b) Each commercial franchisee providing commercial service shall file written monthly  
620 reports within 30 days after the end of each month with the city manager or designee. The  
621 report shall contain an accurate statement of all receipts under the franchise from all  
622 sources, the number of accounts by service level, the quantities of garbage and trash  
623 collected and the number of routes for garbage and trash collection.

624 (c) Each commercial franchisee providing commercial service shall file an annual report  
625 including a schedule of total gross revenues as defined in section 27-80(a). This annual report  
626 shall be examined by an independent certified public accountant ("auditor") to certify that the  
627 computation of gross revenue used to calculate franchise fees remitted is in accordance with the  
628 terms of the franchise. The auditor's report shall state that the examination was performed in  
629 accordance with professional standards established by the AICPA and shall be filed with the city  
630 manager or designee within 120 days of the franchisee's year end.

631 (d) Each commercial franchisee shall submit by September 1 of each year an updated list  
632 of the type, number and complete description of all equipment to be used for providing service  
633 pursuant to this division. Vehicles placed into service since the preceding September 1 shall have  
634 the in-service dates noted, and vehicles no longer in service shall have the retirement dates noted.  
635 Commercial and demolition debris collection service franchisees will be invoiced for all net  
636 increases in vehicles operating during the prior year on a prorated basis, as well as invoiced for  
637 vehicles intended to be operated during the coming year.

638 Sec. 27-82. - Application requirements.

639 (a) Applications for a franchise shall be made to the city manager or designee on such  
640 forms and in such manner as prescribed by the city. Application may be made for one or both of  
641 the following types of franchise:

642 (1) Commercial limited to collection of garbage and trash from commercially-collected  
643 residential dwellings and collection or processing of garbage and trash from commercial  
644 generators.

645 (2) Construction and demolition limited to collection and disposal of construction and  
646 demolition debris.

647 (b) Application forms will require, at a minimum, the following information and  
648 supporting documents.

649 (1) If the applicant is a partnership or corporation, the name(s) and business address(es) of  
650 the principal officers and stockholders and other persons having financial or controlling interest  
651 in the partnership or corporation; provided, however, that if the corporation is a publicly owned  
652 corporation having more than 25 shareholders, then only the names and business addresses of the  
653 local managing officers shall be required.

654 (2) Criminal convictions, including withheld adjudication and plea of nolo contendere for  
655 any felonies of the applicant if an individual, or any person having any controlling interest in a  
656 firm, corporation, partnership, association or organization making application, if requested by the  
657 city manager or designee.

658 (3) A statement of whether such applicant operates or has operated a solid waste collection  
659 business in this or any other state or territory under a franchise, permit or license; and if so,  
660 where, and whether such franchise, permit or license has ever been revoked or suspended and the  
661 reasons therefor.

662 (4) Proof that corporation is in good standing in the state of corporation, if applicant is a  
663 corporation, and, if not a Florida corporation, that applicant is qualified to do business in the  
664 State of Florida. If applicant is other than a corporation and is operating under a fictitious name,  
665 applicant shall be required to submit information that such fictitious name is registered and held  
666 by applicant.

667 (5) A list of the type, number and complete description of all equipment to be used by the  
668 applicant for providing service pursuant to this division. The city manager or designee may  
669 conduct an inspection of all equipment utilized in providing the services as outlined in the  
670 franchise to determine that the franchise possesses equipment capable of providing safe and  
671 efficient services.

672 (6) The applicant shall maintain in full force and effect insurance as specified herein and  
673 shall furnish a comprehensive general liability policy to the city manager or designee and also  
674 file with the city manager or designee a certificate of insurance for all policies written in the  
675 applicant's name. The applicant shall carry in its own name a policy covering its operations in an  
676 amount not less than \$200,000.00 per occurrence for bodily injury and \$200,000.00 per  
677 occurrence for property damage regarding comprehensive general liability. The applicant shall  
678 carry in its own name a policy covering its operation in an amount not less than \$100,000.00 per  
679 person, \$200,000.00 per occurrence for bodily injury, and \$50,000.00 per occurrence for  
680 property damage liability regarding automobile liability insurance.

681 (7) The insurance policies shall be filed in the office of the city manager or designee and  
682 shall remain on file so long as the franchisee operates a franchise.

683 (8) The applicant shall pay the city a nonrefundable application fee, as specified in Appendix  
684 A, at the time application is filed.

685 Sec. 27-83. - Denial of application; suspension or revocation of franchise; right of appeal.

686 (a) Upon a finding of just cause, the city manager or designee shall deny a franchise in  
687 the case of application for new or renewed franchises, and suspend or revoke a franchise for a  
688 specified period of time in the case of previously issued franchises. Just cause shall include but  
689 not be limited to a failure to meet the requirements of this article, violation of any of the  
690 provisions of this article or any of the ordinances of the city, or the laws of the United States or  
691 the state of Florida, the violations of which reflect unfavorably on the fitness of the holder to  
692 offer solid waste collection services to the public.

693 (b) Prior to denial, suspension or revocation, the applicant or holder shall be given  
694 reasonable notice of the proposed action to be taken and shall have an opportunity to present to  
695 the city manager or designee evidence as to why the franchise should not be denied, revoked or  
696 suspended. The notice of intention shall be served upon the applicant or franchisee by registered  
697 mail or personal service.

698 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the  
699 city manager or designee may appeal the decision to the city commission. The appeal shall be  
700 taken by filing written notice thereof, in duplicate, with the clerk of the commission within ten  
701 days after the decision of the city manager or designee. The clerk of the commission shall notify  
702 the city manager of the appeal and the city manager or designee shall forthwith transmit to the  
703 clerk copies of all papers constituting the record upon which the action appealed is based. The  
704 clerk of the commission shall place the appeal on the agenda of the next regularly scheduled city  
705 commission meeting which is not less than ten days from the date of the filing of the appeal. The  
706 city commission shall review the record and decide whether the decision of the city manager was  
707 based on competent, substantial evidence. ~~If~~

708 the commission finds competent, substantial evidence for the city manager's decision, it  
709 will uphold the manager's decision; otherwise, it will reverse the manager's decision. The  
710 decision of the city commission shall constitute final administrative action.

711 Sec. 27-84. - Penalties for violation.

712 Except as otherwise provided, any person violating or failing to comply with any of the  
713 provisions of this division shall be punished as provided by section 1-9.

714 DIVISION 3. – COMMERCIAL AND MULTIFAMILY RECYCLING

715 Sec. 27-85. - Mandatory commercial and multifamily recycling established.

716 (a) Commercial generators. ~~Beginning January 1, 1997, or such later date as designated by the~~  
717 ~~city manager or designee, all~~ All commercial generators ~~and generators of construction and~~  
718 ~~demolition debris~~ shall separate designated recycling materials and make them available for  
719 recycling. The commercial generator ~~or generator of construction and demolition debris~~ may  
720 utilize a registrant, which includes a commercial franchisee who has obtained a registration, to  
721 collect the recycled materials. Failure to separate the designated recyclable materials, except for  
722 de minimus amounts as determined by the city manager or designee, from solid waste loads  
723 delivered to a city facility, a facility under contract with the city or a solid waste container at  
724 point of generation will subject the commercial generator to civil citation as provided in  
725 sections 2-336 through 2-339 of this Code and may, in addition, result in a surcharge as provided  
726 in subsection (ee) below.

727 (b) Beginning January 1, 2022 or such a later date as designated by the city manager or designee  
728 all commercial generators that regularly generate more than one cubic yard of food waste per  
729 week shall divert them from the waste stream. The City Manager may implement this section  
730 incrementally if infrastructure does not exist to fully accommodate the city's production. All

731 restaurants, food processors, and grocery stores shall be assumed to be required to meet this  
732 requirement unless capable of documenting otherwise. Affected business are encouraged to  
733 implement the following hierarchy when diverting food waste:

- 734 (1) feeding hungry people;
- 735 (2) feeding animals;
- 736 (3) providing for industrial uses; and
- 737 (4) composting.

738 (c) Special Event Recycling

- 739 a. For community special events requiring an event permit from the City of Gainesville,  
740 the special event permittee shall provide recycling and food waste receptacles  
741 throughout the event venue.
- 742 b. The number of recycling and food waste receptacles shall be equal to the number of  
743 garbage receptacles.
- 744 c. Garbage, food waste, and recycling receptacles shall be placed next to each other  
745 throughout the event venue.
- 746 d. The minimum of recyclable items that shall be collected in event recycling  
747 receptacles shall be plastic beverage bottles, aluminum cans and bottles, and glass  
748 bottles.
- 749 e. The special event permittee shall provide recycling containers for corrugated  
750 cardboard that is generated at the event by the special event permittee or vendors at  
751 the special event. The special event permittee shall inform vendors at each event of  
752 the requirement for the recycling of corrugated cardboard.



775 shall have 15 calendar days to affirm or abate the surcharge. The determination of the manager  
776 or designee shall be final.

777 ~~(eg) Commercially-collected residential~~ Multifamily residential service. All  
778 ~~commercially-collected multifamily residential serviced~~ units shall establish a recycling program  
779 that: ~~includes recycling of all designated recyclable materials and is convenient and accessible to~~  
780 ~~the residents by January 1, 1997.~~

781 (1) Includes recycling of all designated recyclable materials.

782 (2) By June 1, 2025 or later if determined by the City Manager, include a food  
783 waste diversion program.

784 (3) Is as convenient and accessible to the residents as garbage and trash collection  
785 containers unless the solid waste division and generator agree upon a site that is better  
786 suited for program success.

787 (4) Provides an adequate level of service and capacity of recyclable collection  
788 containers based on the number of residents or units at the given property as determined  
789 by the city manager or designee.

790 (5) Prominently post and maintain one or more signs in common areas where  
791 recyclables are collected or stored that specify the materials accepted for recycling and  
792 the collection procedures for such materials.

793 (6) Distributes recycling information in printed or electronic form to each  
794 occupant or unit on the property upon leasing and at least once annually and within  
795 fourteen (14) days after any changes to recycling services on the property.

796 ~~(fh)~~ Location of containers. All recovered materials shall be placed in an appropriate  
797 industry standard container. Where garbage ~~bins~~ carts are used, they shall be placed at the

798 roadside or at such other single collection point as may be agreed to between the registrant and  
799 the customer. All containers shall be kept in a safe, accessible location as designated or approved  
800 by the city and agreed to by the registrant and customer.

801 (gi) Maintenance of containers. If a registrant provides recovered material containers to  
802 its customers, the registrant will be responsible for the proper maintenance of the container.  
803 Customers that acquire their own containers from any other source are responsible for the proper  
804 maintenance of the container, except that damage done by the registrant shall be the  
805 responsibility of the registrant; and for ensuring that the container can be serviced by the  
806 registrant's equipment.

807 (hj) Proof of participation in recycling program. A commercial generator, generator of  
808 construction and demolition debris or owner of a commercially-collected residential property  
809 shall produce proof of a valid and current contract with a registrant or receipts for delivery of  
810 recovered materials to an approved site, upon request of the city manager or designee.

811 (k) Exemptions. A commercial generator or multifamily residential serviced property  
812 owner shall have the right to file a request for an exemption request from the requirement  
813 within Section 27-85. The city manager or designee shall grant a request for an exemption if  
814 the commercial generator demonstration to the satisfaction of the city manager or designee that  
815 the volume of recyclables generated is de minimus amounts or space is not available at a given  
816 property for additional container placement. Each exemption request must be completed and  
817 submitted using the standardized forms as provided by the city manager or designee;  
818 Commercial generators and multifamily residential serviced property owners shall be notified  
819 in writing within sixty (60) days on the status of their exemption request.

820 Sec. 27-86. - Registration of recovered materials and food waste collectors.

821 (a) *Registration required.* ~~On and after October 1, 1996,~~ no person, including a  
822 commercial franchisee, shall collect, transport, convey or process recovered materials in the city  
823 without a registration certificate from the city. Each commercial franchise holder ~~as of October~~  
824 ~~1, 1996,~~ who desires to collect recovered materials as part of the commercial recycling program  
825 shall be granted a registration certificate upon filling out an application and providing the  
826 necessary documentation. No application fee will be required until such time as the commercial  
827 franchise would have terminated had it not been extended by subsection 27-79.1.

828 (b) *Application for a Recovered Material certificate.*

829 (1) Applications for registration shall be obtained from and returned to the department of  
830 solid waste.

831 (2) The applicant shall state whether it is a processor, a transporter, or both.

832 (3) Requested information on the application shall be limited to that information required by  
833 F.S. § 403.7046.

834 (4) The application must be accompanied by

835 a. a copy of state certification as required by F.S. § 403.7046;

836 b. disclosure of ownership as set forth below; and

837 c. proof of insurance as set forth below.

838 (c) *Application for a Food Waste Collector.*

839 (1) Applications for registration shall be obtained from and returned to the City's Solid  
840 Waste Division.

841 (2) The applicant shall state whether it is a processor, a transporter, or both.

842 a. Provide a list of facilities that material will be delivered and shall be updated within  
843 fifteen (15) days of using a new facility

844 b. disclosure of ownership as set forth below; and

845 c. proof of insurance as set forth below.

846 (~~e~~) *Renewal of registration.* The certificate of registration may be valid for five years,

847 and may be renewed up to two times upon

848 (1) disclosure of ownership as set forth below;

849 (2) proof of insurance as set forth below as of the time of renewal; and

850 (3) proof that the registrant is still providing service to customers.

851 (~~e~~) *Operating requirements for registrants.* Persons collecting, transporting, conveying

852 or processing recovered materials in the city shall comply with the following operating

853 requirements:

854 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a notarized

855 statement disclosing the names of its owners, general and limited partners, or corporate or

856 registered name under which it will conduct its business as authorized by this article.

857 (2) *Response to complaint.* Each registrant shall be responsible for responding to any and all

858 complaints which involve registrant's actions that create a nuisance or have the potential to create

859 a nuisance. Response shall be within 24 hours of the complaint, or by 5 p.m. Monday if the

860 complaint was received during a weekend.

861 (3) *Clean-up.* A registrant shall handle recovered materials containers with reasonable care

862 and return them to the approximate location from which they were collected. A registrant shall

863 clean up all materials spilled during its collection operation.

864 (4) *Emergencies.* A registrant shall not be required to provide collection services when all

865 appropriate recycling sites are closed or a city emergency or imminent emergency exists, as

866 determined by the city manager or designee. Collections shall resume on the instruction of the  
867 city manager or designee.

868 (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be  
869 responsible for any losses or damages of any kind arising from its performance or  
870 nonperformance under its registration. The registrant shall defend at its own expense or  
871 reimburse the city for its defense, at the city's option, of any and all claims and suits brought  
872 against the city, its elected or appointed officers, employees, and agents resulting from the  
873 registrant's performance or nonperformance of service pursuant to the registration.

874 (6) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or accidental  
875 release of recovered material during transport.

876 (7) *Insurance.* A registrant shall purchase and maintain the types and amounts of insurance  
877 set forth below from companies authorized to do business in the State of Florida. The city shall  
878 be named as an additional insured on the general liability insurance if the registrant utilizes city  
879 facilities. Failure to maintain insurance shall result in revocation of registration.

880 a. General liability insurance - \$500,000.00 per occurrence if the registrant utilizes city  
881 facilities

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

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

884 (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense all local,  
885 state and federal franchises, certificates, permits or other authorizations necessary for the conduct  
886 of its operations. A registrant and its employees, officers and agents shall comply with all  
887 relevant local, state, and federal laws, rules and regulations, orders and mandatory guidelines  
888 applying to the collection or processing services being rendered.

889 (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be deemed  
890 to be a waiver of any applicable local, state or federal law or regulation, including but not limited  
891 to zoning or planning regulations, with respect to a recycling operation of any kind, nor shall it  
892 create any vested right to own or operate any type of recycling operation.

893 (10) *Hours of operation.* A registrant shall make available daily (except Sunday) collection of  
894 designated recyclable materials and food waste. Collection shall begin no earlier than 6:00 a.m.  
895 and shall cease no later than 9:00 p.m. Monday through Saturday, except in areas of mixed  
896 residential and commercial occupancy where collections shall begin no earlier than 7:00 a.m. and  
897 shall cease no later than 9:00 p.m. Monday through Saturday. The city manager or designee may  
898 authorize collection on Sunday where special needs of the customer make it necessary.

899 (e) *Separation of residential and commercial materials.* Curbside collection of designated  
900 recyclable materials from commercial generators shall be allowed only with prior approval of the  
901 city manager or designee, when considering a request to provide curbside collection, the city  
902 manager or designee shall consider the following factors:

903 (1) Accessibility of collection vehicles to property.

904 (2) Available space for placement of containers.

905 (3) Predominant use of property.

906 (4) Safety.

907 (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered  
908 materials dealer that has been certified by the Florida Department of Environmental Protection or  
909 subsequent responsible agency, and the city.

910 (g) *Reports.* The registrant shall submit to the city manager or designee reports as  
911 authorized by F.S. § 403.7046, and the regulations promulgated pursuant to the authority stated  
912 in statute.

913 Sec. 27-87. - Revocation of registration.

914 (a) Upon a finding of just cause, the city manager or designee shall deny a registration in  
915 the case of application for new or renewed registration, and suspend or revoke a registration for a  
916 specified period of time in the case of previously issued registration. Just cause shall be  
917 consistent and repeated violation of state or local laws, ordinances, rules, and regulations relating  
918 to the applicant's or registrant's operation; or loss of state certification as a recovered materials  
919 dealer.

920 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given  
921 reasonable notice of the proposed action to be taken and shall have an opportunity to present to  
922 the city manager or designee evidence as to why the registration should not be denied, revoked  
923 or suspended. The notice of intention shall be served upon the applicant or registrant by  
924 registered mail or personal service.

925 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the  
926 city manager or designee may appeal the decision to the city commission. The appeal shall be  
927 taken by filing written notice thereof, in duplicate, with the clerk of the commission within ten  
928 days after the decision of the city manager or designee. The clerk shall inform the city manager  
929 of the appeal, and the city manager or designee shall forthwith transmit to the clerk copies of all  
930 papers constituting the record upon which the action appealed is based. The clerk of the  
931 commission shall place the appeal on the agenda of the next regularly scheduled city commission  
932 meeting which is not less than ten days from the date of the filing of the appeal. The city

933 commission shall review the record and decide whether the decision of the city manager was  
934 based on competent, substantial evidence. It [If] the commission finds competent, substantial  
935 evidence for the city manager's decision, it will uphold the manager's decision; otherwise, it will  
936 reverse the manager's decision. The decision of the city commission shall constitute final  
937 administrative action.

938 Sec. 27-88. - Penalties for violation.

939 Except as otherwise provided, any person violating or failing to comply with any of the  
940 provisions of this division shall be punished as provided by section 1-9 of this Code of  
941 Ordinances.

942 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of  
943 this Ordinance shall become and be made a part of the Code of Ordinances of the City of  
944 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered  
945 or relettered in order to accomplish such intentions.

946 **Section 3.** All ordinances or parts of ordinances in conflict herewith are to the extent of  
947 such conflict hereby repealed.

948 **Section 4.** This ordinance shall become effective immediately upon adoption.

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

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956 Attest:  
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960 \_\_\_\_\_  
OMICHELE D. GAINEY

\_\_\_\_\_  
LAUREN POE  
MAYOR

Approved as to form and legality:

\_\_\_\_\_  
NICOLLE M. SHALLEY

961 CITY CLERK

CITY ATTORNEY

962

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

964

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