

ORDINANCE NO.

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

WHEREAS, the City Commission finds that it is desirable to require commercial establishments who provide food for consumption to divert food and food waste to beneficial uses, including feeding hungry people, feeding animals, industrial uses, and composting; and

WHEREAS, 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 7 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 7. – FOOD DIVERSION

Sec. 27-95.11. - Definitions.

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

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

32 (a) Beginning on the dates listed below, the following commercial generators shall divert
33 food or food waste from the waste stream unless they are granted an exemption:

34 (1) By January 1, 2023, food retailers that occupy at least 25,000 square feet.

35 (2) By January 1, 2024, restaurants that occupy at least 4,500 square feet, businesses
36 with a commercial kitchen(s) where the kitchen(s) occupies at least 1,000 square
37 feet, businesses engaged in selling food to other businesses, businesses engaged in
38 making food from one or more ingredients through processing or preparation for
39 sale directly to the public, retailers, or wholesalers.

40 (3) By January 1, 2025, all businesses that generate more than one cubic yard of food
41 waste per week unless that business can demonstrate that the quantity of food waste
42 generated is less than 5% by weight of the total waste stream produced by the
43 business on a weekly basis.

44 Commercial generators which are required to divert food or food waste under this
45 subsection shall divert food or food waste in accordance with the following hierarchy:

46 (1) feeding hungry people;

47 (2) feeding animals;

48 (3) providing for industrial uses; and

49 (4) composting.

50 (b) Proof of participation in food waste diversion program. Upon request of the public
51 works director or designee, a commercial generator shall, depending on whether food or food
52 waste is diverted, provide the following as proof of compliance: 1) receipts for delivery of food

53 to a food bank or other facility that provides food to hungry people or animals, or 2) receipts for
54 delivery of food waste to a food waste processing facility, or produce proof of a valid and current
55 contract with a food waste registrant.

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

60 (d) Maintenance of containers. If a registrant provides food waste containers to its customers,
61 the registrant will be responsible for the proper maintenance of the container. Customers that
62 acquire their own containers from any other source are responsible for the proper maintenance of
63 the container, except that damage done by the registrant shall be the responsibility of the
64 registrant; and for ensuring that the container can be serviced by the registrant's equipment. Any
65 customer or registrant violating this paragraph shall be subject to a civil citation as provided in
66 chapter 2, article V, division 6.

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

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

77 Unless specifically stated otherwise, the city shall enforce violations of sections 27-95.12
78 through code enforcement proceedings, by section 1-9 of this Code of Ordinances, or seek
79 injunctive relief in a court of competent jurisdiction.

80 **Section 3.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
81 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
82 and effect.

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

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

<u>Division 7,</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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86 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
87 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
88 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
89 renumbered or relettered in order to accomplish such intentions.

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

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

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

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PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

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LAUREN POE
MAYOR

107 ATTEST:
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Approved as to form and legality

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OMICHELE D. GAINEY
CITY CLERK

DANIEL M. NEE
INTERIM CITY ATTORNEY

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

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This ordinance passed on second reading this ____ day of _____, 2022.

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