

Legislative #

210129C

31 **WHEREAS**, the City Commission finds that this Ordinance is necessary to achieve
32 waste reduction goals of the city by reducing consumption as well as ensuring maximum
33 processing or reuse of recovered materials; and

34 **WHEREAS**, the City Commission finds that this Ordinance will improve health, safety,
35 welfare, and aesthetics of the community by requiring more frequent collection from certain
36 commercial establishments and commercially-collected residential properties and requiring
37 property owners to provide adequate space for commercial tenants to dispose of solid waste; and

38 **WHEREAS**, the City Commission finds that this Ordinance will improve and encourage
39 collection of recyclable materials at commercially collected residential properties by requiring
40 commercially collected residential properties to provide information regarding recycling and
41 make recycling separation and disposal convenient for occupants; and

42 **WHEREAS**, the City Commission finds that this Ordinance will reduce disposition of
43 functional household goods at landfills by requiring larger commercially-collected properties to
44 have lease transition plans wherein they would divert household goods from the waste stream
45 during high volume move-in and move-out periods typical of housing geared toward students;
46 and

47 **WHEREAS**, the City Commission finds that improper prescription drug disposal and
48 drug misuse will be reduced by requiring retail commercial establishments that dispense
49 prescriptions drugs to have a prescription drug take back program; and

50 **WHEREAS**, the City Commission finds that this Ordinance will encourage the public to
51 recycle by requiring labeling for solid waste containers and requiring additional recycling
52 collection containers to be placed next to garbage containers at commercial establishments;

53 **WHEREAS**, this Ordinance changes the process for hearing denials, suspension, or
54 revocations of a commercial franchise and registrations for recovered materials by granting
55 authority to the public works director to make the decision and granting authority to the city
56 manager to decide an appeal of the public works director’s decision; and

57 **WHEREAS**, the City Commission wishes to restrict and/or prohibit certain single-use
58 plastic and polystyrene products within the City with the goal of reducing overall solid waste and
59 the use of disposable plastic and polystyrene products that are harmful to the environment; and

60 **WHEREAS**, at least ten (10) days’ notice has been given once by publication in a
61 newspaper of general circulation notifying the public of this proposed ordinance and of public
62 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of
63 Gainesville; and

64 **WHEREAS**, public hearings were held pursuant to the notice described above at which
65 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

66 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
67 **CITY OF GAINESVILLE, FLORIDA:**

68 **Section 1.** Article III of Chapter 27 of the Gainesville Code of Ordinances is amended to
69 read as set forth below. Except as amended herein, the remainder of Chapter 27 remains in full
70 force and effect.

71 **CHAPTER 27 - UTILITIES**

72 **ARTICLE III – SOLID WASTE DISPOSAL**

73
74 **DIVISION 1. - GENERALLY**

75
76 **Sec. 27-71. - Purpose.**

77 This article is adopted to promote and protect the public health, safety and general welfare of the
78 ~~citizens~~ residents and visitors of the city. The regulations, authority and rates established in this
79 article are for the purpose of providing a solid waste collection and disposal program at a
80 reasonable cost and promoting recycling by both residential and commercial customers.

81 **Sec. 27-72. - Definitions.**

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

83 *Applicant* shall mean

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

87 (b) a person applying to the city for a registration certificate required to collect, process,
88 convey or transport recovered materials within the city for hire, remuneration or other
89 consideration; or

90 (c) a person applying to the city for a registration certificate required to collect, process,
91 convey, or transport food waste within the city for hire, remuneration, or other
92 consideration.

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

97 *Cart* shall mean a serial-numbered, two-wheeled container with attached lid and handle,
98 available in approximately 20, ~~350~~, 650, and ~~950~~ gallon sizes, supplied and distributed by the
99 solid waste collector.

100 *Certified recovered materials dealer* shall mean a dealer certified as provided in F.S. §
101 403.7046.

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

103 *Commercial establishment* shall mean any space used primarily for business activities.

104 Commercial establishment does not include residential properties, even if such residential
105 properties are managed or owned by a commercial entity.

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

108 (a) commercial service;

109 (b) collection of construction and demolition debris.

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

112 *Commercial service* shall mean pickup of garbage and trash, but excluding hazardous
113 waste, biomedical waste and yard ~~trash~~ waste, provided by a commercial franchisee to one of the
114 following:

115 (1) a licensed mobile home park ~~exceeding four~~ with five or more dwelling units;

116 (2) multi-family residences ~~exceeding four~~ with five or more dwelling units under one
117 common roof;

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

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

122 *Commercial service container* shall mean an industry-standard container constructed of
123 non-absorbent material, with or without a cover, made for mechanized pickup. It includes
124 dumpsters and carts.

125 *Commercially-collected residential service* shall mean the collection of solid waste, other
126 than hazardous waste and bio-medical waste, provided to persons occupying residential dwelling
127 units ~~in buildings with five or more dwelling units within the city and persons occupying~~
128 ~~residential dwelling units in buildings with two to four dwelling units within the city who have~~
129 ~~been allowed by the city to opt out of curbside residential service in a development where one or~~
130 more of the following criteria exists:

- 131 1) the development has at least one building with five or more dwelling units;
- 132 2) the development has a building with two to four dwelling units which has been
133 allowed by the city to opt-out of curbside residential service;
- 134 3) separate developments that share common infrastructure (such as a shared parking lot),
135 ownership, property management, or home owner association but have four or less
136 units per building when the city manager or designee has determined it is in the best
137 interest of the city for operational or aesthetic reasons to provide commercially-
138 collected residential service to the developments.

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

140 *Construction and demolition debris* shall mean materials generally considered to be not
141 water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete,
142 asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or
143 destruction of a structure as part of a construction or demolition project, and including rocks,
144 soils, tree remains, trees, and other vegetative matter that normally results from land clearing or

145 land development operations for a construction project, including such debris from construction
146 of structures at a site remote from the construction or demolition project site. Mixing of
147 construction and demolition debris with other types of solid waste, including material from a
148 construction or demolition site which is not from the actual construction or destruction of a
149 structure will cause it to be classified as other than construction and demolition debris.

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

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

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

165 *De minimus* quantity shall mean

166 (a) no more than ~~15~~ 10 percent by volume of total designated recyclable materials,
167 regardless of type, in a solid waste load delivered to a city facility or a facility under contract
168 with the city or in a solid waste container at point of generation; or

169 (b) no more than 15 percent by volume of non-recovered materials ~~non-putrescible and~~
170 ~~no more than five percent by volume putrescible solid waste~~ in a recovered material container at
171 the point of generation; or

172 (c) no more than 15 percent by volume of food waste in a solid waste load delivered to a
173 city facility or a facility under contract with the city or in a solid waste container at point of
174 generation.

175 *Designated recyclable materials* shall mean those recyclable materials that are designated
176 ~~in writing~~ by the city manager or designee as potential recovered materials.

177 *Dwelling unit* shall mean a living unit, house, mobile home, apartment or building used
178 primarily for human habitation.

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

181 Food service establishment means any place where food is prepared and intended for
182 individual portion service, and includes the site at which individual portions are provided. The
183 term includes any such place regardless of whether consumption is on or off the premises and
184 regardless of whether there is a charge for the food. The term includes delicatessens that offer
185 prepared food in individual service portions. The term does not include schools, institutions,
186 fraternal organizations, private homes where food is prepared or served for individual family
187 consumption, retail food stores, the location of food vending machines, cottage food operations,

188 and supply vehicles, nor does the term include a research and development test kitchen limited to
189 the use of employees and which is not open to the general public.

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

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

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

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

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

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

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

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

221 *Registrant* shall ~~be~~ mean

222 (a) a person who has made application with the city to collect, transport, convey or
223 process recovered materials in the city and has subsequently received a registration certificate
224 from the city-;or

225 (b) a person who has made application with the city to collect, transport, convey or
226 process food waste in the city and has subsequently received a registration certificate from the
227 city.

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

231 *Solid waste* shall mean sludge unregulated under the federal Clean Water Act or Clean
232 Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution
233 control facility, or garbage, trash, special waste, or other discarded material, including solid,

234 liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial,
235 mining, agricultural or governmental operations. Recovered materials as defined in this article
236 are not solid waste.

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

240 *Source separated* shall describe those recovered materials separated from solid waste
241 ~~(except other recovered materials or de minimus amount of solid waste)~~ where the recovered
242 materials and solid waste are generated.

243 *Trash* shall mean ~~accumulations of paper, magazines, packaging, containers, sweepings~~
244 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~
245 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~
246 ~~offices and other business places~~ nonputrescible debris that is generated by households,
247 businesses, and institutions.

248 *Yard ~~trash~~ waste* shall mean all accumulations of grass, leaves, shrubbery, vines, tree
249 branches and trimmings which are normally associated with the care and maintenance of
250 landscaping.

251 **Sec. 27-73. - Prohibited acts.**

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

- 253 (1) To place or cause to be placed any garbage or trash upon the property of another;
- 254 (2) To collect or transport solid waste for hire or for remuneration or any other form of
255 consideration without first being granted a commercial franchise except as follows:
- 256 (a) Commercial generators transporting their own solid waste; and

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

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

262 (a) Commercial generators transporting their own debris;

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

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

268 (a) Persons whose primary business is freight transport that may involve the intermittent
269 transport of recovered materials;.

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

271 (c) Persons transporting their own recovered materials generated by their own dwelling
272 unit or establishment to an appropriate recycling site;.

273 (5) To collect recovered materials from a solid waste container used by a consumer or
274 commercial customer receiving service from a franchisee, franchise or registrant, after the
275 consumer or commercial customer places the container and recovered materials at the curb or
276 designated area for collection, except as permitted by the city on an emergency interim basis as
277 part of the city's recycling program when the city manager or designee determines that it is
278 necessary to protect public health, safety or welfare;.

- 279 (6) To allow solid waste or recovered materials to spill, blow or drop from any vehicle on
280 any road or to transport any solid waste or recovered material over any public road unless the
281 solid waste or recovered material is securely tied or covered so as to prevent leakage or spillage
282 onto the road;.
- 283 (7) To place or store solid waste on any property for a period in excess of one week, unless it
284 is securely contained or covered.
- 285 (8) To deposit or dispose of any garbage or trash on the paved or traveled portion of any
286 public street, or any alleyway, sidewalk, bike path, stream, ditch, river, pond, bay, creek, park,
287 other right-of-way or public place in the city except at areas as may be designated by the city.
- 288 (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or
289 landfill within the city without first obtaining the permission of the custodian thereof;.
- 290 (10) To burn any garbage or trash within the city, except at designated incinerators or
291 landfills, without first obtaining a permit from the city;.
- 292 (11) To produce or accumulate any construction and demolition debris, tree branches or
293 similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or
294 building contractor), without removal of the same to a designated disposal area;.
- 295 (12) To allow any scattered garbage or trash to remain at or near the curbside, or to fail to
296 remove any windblown or animal scattered garbage or trash from a public area and right-of-way
297 which have blown or otherwise scattered from the person's dwelling unit curbside collection
298 point;.
- 299 (13) To place any solid waste or ~~recyclable~~ recovered materials out for collection by any alley
300 service drive, easement or right-of-way not serviced by collection trucks;.

- 301 (14) To place any solid waste or ~~recyclable~~ recovered materials out for collection adjacent to
302 the street if collection trucks service the area from an established alley;.
- 303 (15) To place any solid waste or ~~recyclable~~ recovered materials in an underground container
304 for pickup;.
- 305 (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of
306 the city.
- 307 (17) To deposit any hazardous waste as defined in F.S. § 403.703, in any cart or commercial
308 service container;.
- 309 (18) To place or cause to be placed any garbage, trash, ~~recyclable~~ recovered materials or other
310 solid waste in the cart or commercial service container belonging to another without proper
311 authority;.
- 312 (19) To remove any materials, without proper authority, from any container belonging to
313 another which contains materials set out for recycling;.
- 314 (20) To mix yard ~~trash~~ waste with normal solid waste loads, whether for residential or
315 commercial service.
- 316 (21) To leave uncovered a garbage, trash, recovered material, or food waste container that has
317 a lid or fitted cover.
- 318 (22) To collect garbage, trash, recovered material, or food waste in a container without a
319 properly sized or fitted cover, except for residential curbside recycling bins designed to be open-
320 topped containers.

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

- 322 (a) The city manager or designee shall have the authority to make regulations concerning
323 the days of collection, type and location of collection containers and other such

324 matters pertaining to the storage, collection, conveyance and disposal as necessary
325 and to change or modify the same after reasonable notice to affected persons.

326 (b) The city manager or designee ~~is responsible for the enforcement of~~ may enforce
327 regulations regarding storage, collection, conveyance and disposal of all solid waste and
328 ~~recyclable~~ recovered materials generated within the city, including accumulations of same that
329 may be in violation of this article or other solid waste regulations. Except as otherwise provided,
330 provisions of this division may be enforced by civil citation if specifically provided for by
331 section 2-339, as provided by section 1-9, enforced by code enforcement proceedings, or the city
332 may seek injunctive relief. If a notification of violation ~~will be~~ was provided and correction of
333 the violation ~~shall be~~ was not made in the time specified by the notice; ~~however, failing~~
334 ~~correction,~~ the city is hereby authorized to collect and dispose of the material causing the
335 violation and to bill the customer or owner of record of the property for the cost of providing this
336 additional collection and disposal service.

337 **Sec. 27-75. - Commercial service and commercially-collected residential service.**

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

342 (b) *Collection frequency and method:* ~~Each~~ Commercial generators or commercially-
343 collected residential service customers shall enter into an agreement with a franchisee of the city
344 for the frequency and method of ~~refuse~~ garbage collection except where 1) landlords provide
345 service through a franchisee, or 2) commercial generators reach a dumpster sharing arrangement
346 with an adjacent generator or a generator whose shared dumpster is within 500 feet (or further if

347 approved by the city manager or designee) of each commercial generator's service door and one
348 of the generators has an agreement with a franchisee. If a commercial generator has a dumpster
349 sharing arrangement, proof of such an arrangement shall be submitted to the city upon request.
350 Except as provided below, sSuch service shall be received no less than one time per week with
351 no exception for holidays, except that collection service scheduled to occur on a holiday may be
352 rescheduled with written notice to the customer as long as minimum frequency is met. Collection
353 service provided to compactors is exempt from this minimum frequency. Commercially-
354 collected residential service not serviced by a compacting dumpster shall receive a minimum of
355 twice per week service. The following commercial establishments not serviced by a compacting
356 dumpster shall not let food waste remain in a commercial service container for more than two
357 consecutive working days: 1) any establishment licensed to sell alcohol, beer, or wine for
358 consumption on premises; 2) grocery stores selling fresh produce, raw meat, and packaged food
359 primarily for consumption off premises; and 3) food service establishments. When necessary to
360 protect the public health or to enforce the purpose of this article, the city manager or designee
361 shall have the authority to stipulate the frequency of collection or require the implementation of a
362 plan to eliminate the hazard caused by excess accumulation of waste. Service shall consist of the
363 mechanical dumping of commercial containers capable of being unloaded by proper equipment;
364 or a manual hand service dumping of containers located at agreed upon sites upon the property;
365 or other levels of service as may be required or agreed to. If the franchisee fails to perform
366 collection according to the contract, the customer shall have 30 days from the first such failure to
367 enter into an agreement with another franchisee before being cited for violation of this
368 subsection.

369 (c) *Preparation and storage.* ~~Storage~~ Collection containers shall be drained of free
370 liquids prior to accumulation for collection. Storage areas and areas adjacent to the storage area
371 shall be maintained by the customer in a neat, sanitary and sightly manner. Customers are
372 responsible for maintaining the accessibility to ~~storage~~ collection containers or areas. If pickups
373 are missed due to customer's failure to maintain accessibility, and unsanitary or unsightly
374 conditions result, the customer shall be in violation of this article. All ~~storage~~ collection
375 containers that are to be picked up by collection trucks must be approved by the city as meeting
376 acceptable standards established by the city. Readily apparent damage to storage areas or
377 container enclosures, normal wear and tear excepted, caused by the collector driver shall be
378 reported by the driver to the customer prior to leaving the collection area if the business or
379 management office is open and if not, by radio to the contractor's office, and personnel from the
380 office will then contact the customer at the earliest possible time.

381 (d) *Commercial service containers.* The following commercial service container
382 standards are guidelines under which the owners of containers, as well as the lessees of
383 containers, will conform in order to ensure a healthy and aesthetically pleasing environment for
384 the ~~citizens~~ residents and visitors of the city:

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

388 (2) Every container ~~will~~ shall be clearly marked on the front of the container with the
389 following information and comply with the following standards:

390 a. A serial or property control number;

- 391 b. "NO PARKING," "UNAUTHORIZED ENTRY OR USE PROHIBITED,"
392 AND "DEPOSITING OF FLAMMABLE LIQUIDS OR EXPLOSIVES
393 PROHIBITED" labeled conspicuously across its front.
- 394 c. By October 1, 2023, every commercial service container, except for
395 construction and demolition debris collection containers, shall follow the City's
396 approved color and educational labeling format as set forth in regulations
397 maintained on file with the solid waste division. The city manager or designee
398 may waive the educational labeling requirements of this section if it is determined
399 to be in the best interest of the city.
- 400 (3) Every recovered materials commercial service container shall be clearly and
401 conspicuously labeled across the front of the container with the following
402 information:
- 403 a. "RECYCLING", "RECYCLING ONLY" or "RECYCLE HERE".
- 404 b. "NO GARBAGE".
- 405 c. List of designated recyclable materials accepted in that container, such as
406 "CARDBOARD ONLY," that is texted-based, image-based or a
407 combination of text and images.
- 408 d. Educational labeling shall be:
- 409 i. Clearly and conspicuously placed on and consist of at least twenty-five
410 (25) percent of the area of the front loading side of dumpsters or cart
411 lids;
- 412 ii. Printed in both the English and Spanish language.

413 (4) Every organic materials commercial service container shall be clearly and
414 conspicuously labeled across the front of the container with the following
415 information:

- 416 a. “YARD WASTE ONLY”, “COMPOST ONLY” or “FOOD WASTE
417 ONLY”.
- 418 b. “NO GARBAGE”.
- 419 c. List of organic materials accepted in that container that is texted-based,
420 image-based or a combination of text and images.
- 421 d. Educational labeling shall be:
 - 422 i. Clearly and conspicuously placed on and consist of at least twenty-
423 five (25) percent of the area of the front loading side of dumpsters or
424 cart lids;
 - 425 ii. Printed in both the English and Spanish language.

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

429 (4-6) All necessary containers ~~will~~ shall have properly fitting lids and or side door(s) in
430 place that close automatically when lifted and that will prevent the entry of
431 rodents, snakes and other animals, and allow for opening and closing action
432 during the emptying cycle. Containers used for storage of materials other than
433 garbage must meet the same criteria, ~~except that lids~~ Lids or covers may not be
434 required if the city manager or designee determines that it does not pose a threat

435 to the health, welfare or safety of the ~~citizens~~ residents and visitors, or cleanliness
436 of the container site or adjacent community.

437 (~~5~~ 7) Containers at commercial locations are not to be filled to a height exceeding the
438 level of the highest portion of the container body or rim. This limitation applies to
439 dumpsters, carts, ~~cars~~, ~~bins~~ or any other method employed for storage. Customers
440 must arrange for items such as furniture, appliances, construction and demolition
441 debris or any material not considered a part of the customer's normal collection
442 service to be picked up within seven days of being placed for collection. If these
443 items are not picked up within seven days of being placed for collection, the city
444 manager or designee may provide notice to the customer by hand delivery or
445 certified mail, return receipt requested. If the customer has not removed the refuse
446 within 24 hours after notification by the city, the city manager or designee may
447 order such removal and all costs incurred shall be placed against the customer's
448 utility account. At no time will any solid waste or storage containers be placed on
449 the travel portions of any walk, street or alley within the city without prior
450 authorization from the city manager or designee.

451 (~~6~~ 8) The city waste control inspector shall notify the owners and/or lessees of
452 containers not maintained in a condition of good repair or in violation of any
453 provision of this section either by hand delivery of such notice or by sending
454 notice by certified mail, return receipt requested and shall also post a notice in a
455 conspicuous place on the premises. After notice is given in writing, the owner
456 and/or lessee will have 24 hours in which to repair or replace any container that is

457 a hazard during the unloading cycle and seven working days in which to repair or
458 replace all other violations.

459 (e) Containers for public use. Garbage and recycling containers available for public,
460 customer, or employee use at commercial establishments must integrate labeling consisting of
461 text and images on the body or adjacent to the opening of the container that is consistent with
462 City provided samples provided by the solid waste division.

463 **Sec. 27-76. - Residential service.**

464 (a) *Provided.* Residential service shall consist of curbside collection of all garbage, ~~and~~
465 ~~household~~ trash, designed recyclable materials, and an optional service of backyard collection of
466 garbage and designated recyclable materials ~~household trash~~.

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

468 (1) *Garbage ~~and household trash~~:*

469 a. Each dwelling unit qualifying for residential service in the city shall be
470 assigned a serial-numbered cart of the size requested by the occupant of the
471 unit, or, if no size request is received, of the size determined by the city
472 manager or designee. The occupant may exchange the cart for another of
473 different size upon paying the fee as listed in Appendix A. Damaged and stolen
474 carts will be replaced on request.

475 b. All garbage ~~and household trash~~ shall be drained of free liquids and stored for
476 collection in the assigned cart, or in pre-paid garbage disposal bags, as
477 accumulated. The cart shall not be filled above a height allowing the attached
478 lid to be completely closed, nor shall the prepaid garbage disposal bags be
479 filled such that ~~they~~ the bags cannot be securely fastened shut or weigh over 40

480 pounds. The bags may be placed inside non_disposable containers. The
481 assigned cart and the pre-paid garbage disposal bags shall be placed at the curb
482 or roadside no earlier than 5:00 p.m. on the day preceding the scheduled
483 collection day, and the emptied carts and non_disposable containers shall be
484 removed from the curbside location not later than 9:00 p.m. of the day of
485 collection. The carts and non_disposable containers shall be removed and kept,
486 except during the hours permitted by this section for the placement of them for
487 collection, at a location where they are not clearly visible from any public
488 street. It shall be unlawful and punishable as provided for any owner or
489 occupant to place, permit the placing of or allow the continued location of
490 ~~garbage and household trash~~ collection containers in any location or at any
491 times not provided for in this subsection. Garbage ~~and household trash~~ placed
492 in containers other than the assigned cart or pre-paid approved garbage
493 disposal bags will not be collected. Non_disposable or reusable containers
494 intended not to be picked up by the collectors shall be clearly and appropriately
495 identified. Anyone placing garbage ~~or household trash~~ in containers other than
496 the assigned cart or pre-paid garbage disposal bags will be in violation of this
497 article.

498 c. Any container, other than the assigned cart, that is allowed to remain at
499 curbside or roadside at times other than those permitted by this section, and
500 any container, other than the assigned cart, that has become damaged or
501 deteriorated, may be impounded by the city. The owner of any such container
502 so impounded shall be notified immediately in writing by the city by mail to

503 the address where picked up or by placing a notice thereof in a conspicuous
504 place on such premises, or both. The owner may redeem such impounded
505 containers within 30 days after the same are impounded by the city by paying
506 the charges in accordance with the schedule set out in Appendix A. Any
507 container not redeemed within the 30-day period may be used by the city in
508 any manner as the city may determine in furtherance of the waste control
509 program or may be sold to the highest bidder at a noticed public sale for each,
510 which cash shall be deposited in the general fund of the city.

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

524 (3) *Recycling Containers ~~Bin provided~~*. Each dwelling unit shall be provided a ~~bin~~
525 container for the purpose of storage and disposal of designated recyclable materials.

526 Designated ~~R~~recyclable materials that meet the requirements set forth by the city
527 manager or designee shall be collected from curb or roadside. Designated
528 ~~R~~recyclable materials not fitting in the bin may be placed in non-disposable
529 containers or paper bags and will be collected at curb or roadside.

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

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

546 (e) *Service charges.* In order to cover the direct cost, including but not limited to inspecting,
547 billing, collecting, handling, hauling and disposal of solid waste, yard ~~trash~~ waste and
548 designated recyclable materials, and indirect cost, including but not limited to administration,

549 accounting, personnel, purchasing, legal and other staff or departmental services, service
550 charges in accordance with the schedule set out in Appendix A shall be paid monthly to the
551 city, which charge shall be included on the regular monthly statement for utility service.

552 (f) *Residential service exclusion.*

553 (1) Owners of buildings containing two to four residential dwelling units may petition
554 the city to be excluded from residential service and allowed to contract for
555 commercially-collected residential service.

556 (2) Petitions for exclusion shall be made to the city manager or designee.

557 (3) Petitions shall be made on city-provided forms, and shall contain the following
558 information:

559 a. Applicant's name.

560 b. Address of the property proposed to be excluded and number of dwelling units.

561 c. A copy of the proposed service agreement between the applicant and a
562 franchised commercial provider, including the level and type of services to be
563 provided and the number of dwelling units to be served.

564 (4) Upon receipt of a properly executed application and verification of the supporting
565 documentation, the city manager or designee shall decide whether to grant the
566 exclusion based on the following criteria:

567 a. Collection history (whether commercial or residential)

568 b. Accessibility of collection vehicles to property.

569 c. Available space for placement of carts.

570 d. Predominant use of property.

571 e. Safety.

572 f. Level of service requested by residents.

573 (5) The city manager or designee shall notify the applicant in writing of the decision.

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

579 ~~(7) If the exclusion is approved, the applicant must contract for recycling service~~
580 ~~specified in section 27-85. Regardless of whether owners of a building petition the~~
581 city for a residential service exclusion, the city manager or designee may require
582 separate developments that share common infrastructure (such as a shared parking lot),
583 ownership, property management, or home owner association but have four or less
584 units per building to have commercially collected residential service when the city
585 manager or designee has determined it is in the best interest of the city for operational
586 or aesthetic reasons to provide commercially-collected residential service to the
587 developments,

588 **Sec. 27-77. - Special service.**

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

592 (b) Scheduling and rates. Special collection will be scheduled at the earliest reasonable
593 time by the contractor. The fee for special service collection and disposal will be arranged
594 between the customer and the contractor. The contractor will bill directly for such services and

595 collect a reasonable fee agreed to jointly by the contractor and the customer prior to the work
596 being performed.

597 **Sec. 27-78. - Reserved.**

598 **DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION**

599 **DEBRIS FRANCHISE**

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

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

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

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

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

616 (e) Collection times shall be as follows:

617 (1) Each commercial franchisee shall make available daily (~~except Sunday~~)
618 collection of solid waste. Collection shall begin no earlier than 6:00 a.m. and shall
619 cease no later than 9:00 p.m., Monday through Saturday, except that in areas of
620 mixed residential and commercial occupancy collections shall begin no earlier than
621 7:00 a.m. and cease no later than 9:00 p.m., Monday through Saturday. Sunday
622 service shall not begin before 8:00 am and cease no later than 9:00 p.m.

623 (2) ~~Notwithstanding paragraph (c)(1), the city manager or designee may set~~
624 ~~other hours for the purpose of improving collection operations or safety, by the city~~
625 ~~first holding a neighborhood workshop to inform various residents, businesses and~~
626 ~~other stakeholders of the change being considered, and to solicit their input. The~~
627 ~~workshop will be held in a location generally near the subject area in a facility that~~
628 ~~is ADA compliant. The city will provide notification by mail to all owners of~~
629 ~~property and neighborhood associations within the area being considered as well as~~
630 ~~those within 400 feet of the perimeter of that area. The notices will be mailed at~~
631 ~~least 14 days before the workshop and the city will also advertise the workshop in a~~
632 ~~newspaper of general circulation at least 14 days before the date of the workshop.~~
633 ~~The workshop must start between 6:00 p.m. and 8:00 p.m. on a weekday or between~~
634 ~~9:00 a.m. and 5:00 p.m. on a weekend. The city shall prepare a written summary of~~
635 ~~the neighborhood meeting that includes a list of those in attendance, a summary of~~
636 ~~the issues discussed, and comments, concerns and suggestions by those in~~
637 ~~attendance. Any change in collection times shall be established in a written~~
638 ~~memorandum outlining the justification. All memoranda establishing collection~~
639 ~~times, and summaries of the neighborhood meetings, shall be retained on file by the~~

640 ~~solid waste division and made available to the public for inspection. These~~
641 ~~collection times should be reviewed periodically to determine whether the~~
642 ~~operational justification continues to exist.~~

643 (3 2) ~~Notwithstanding paragraph (c)(1), the city manager or designee may~~
644 ~~authorize collection on Sunday where special needs of the customer make it~~
645 ~~necessary.~~ In the event of an emergency, a franchisee may collect at times not
646 allowed by this section, provided the city manager grants prior approval, to be later
647 evidenced by a written memorandum. If no written memorandum is obtained, there
648 shall be a presumption that the franchisee had not obtained prior approval. All
649 written memoranda issued shall be retained on file by the solid waste division and
650 made available to the public for inspection.

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

653 (g) The franchise granted hereunder may be exclusive. Any exclusive franchise granted
654 by the city shall be selected through a competitive procurement process. The city reserves the
655 right to grant similar rights or franchises to more than one person or corporation as well as the
656 right in its own name to use its streets for purposes similar to or different from those allowed to
657 franchisees hereunder.

658 (h) ~~For all contracts between customers and commercial franchisees as of January 1,~~
659 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~
660 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~
661 ~~recycling program.~~

662 (~~h~~ h) If a franchisee fails to perform its contract with any customer for longer than two
663 weeks, the city may perform the work using its own equipment or assign the work to another
664 franchisee, who shall be entitled to receive the revenue from the customer for work performed
665 that would have gone to the defaulting franchisee.

666 (~~j~~ i) The franchisee shall submit to any load inspection program that the city may
667 reasonably devise.

668 (~~k~~ j) Yard waste from a commercial generator or customer shall be collected separately
669 from other solid waste. Each commercial franchisee shall inform all of its commercial customers
670 of this requirement.

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

676 (~~m~~ l) A commercial franchisee shall handle commercial service containers with
677 reasonable care and return them to the approximate location from which they were collected. A
678 commercial franchisee shall clean up all solid waste spilled during the collection operation.

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

683 (~~n~~ n) A commercial franchisee shall not be deemed to be an agent of the city and shall be
684 responsible for any losses or damages of any kind arising from its performance or

685 nonperformance under its franchise. The franchisee shall defend at its own expense or reimburse
686 the city for its defense, at the city's option, on any and all claims and suits brought against the
687 city, its elected or appointed officers, employees, and agents resulting from the franchisee's
688 performance or nonperformance of service pursuant to the franchise.

689 (p o) Each commercial franchisee shall report to the city by December 15 of each year the
690 percentage participation of its clients in commercial recycling and the amount of recycled
691 material collected as a percentage of total solid waste collected from its customers for the year
692 ending September 30.

693 (q p) Each franchisee must provide the city with the location of the disposal site it uses
694 for construction and demolition debris.

695 (r q) In order to ensure that the franchisee provides a quality level of solid waste and
696 recycling collection services, the following standards and fines are set.

697 (1) All complaints received by the city and reported to the franchisee shall be
698 promptly resolved. Any complaint received by the franchisee shall be entered on a
699 form approved by the city. All complaints received during the business day shall be
700 transmitted on the approved form by 5:00 p.m. each business day. Any complaint
701 received before noon shall be resolved the same business day. All other complaints
702 shall be resolved by the end of the next business day.

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

- 708 a. Commingling solid waste with ~~vegetative~~ yard waste and/or designated
709 recyclable materials.
- 710 b. Failure to replace damaged container within seven days of notification (48
711 hours for commercially collected residential customers).
- 712 c. Throwing of garbage cans or recycling containers.
- 713 d. Failure to transmit commercial complaint forms as specified in this
714 subsection.
- 715 e. Failure to repair damage to customer's property.

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

- 718 a. Failure to provide clean, safe, sanitary equipment.
- 719 b. Failure to maintain required office hours.
- 720 c. Failure to maintain proper licenses.
- 721 d. Failure to display franchisee name and phone number on equipment or
722 containers.
- 723 e. Failure to collect solid waste upon notification by city. Franchisee will
724 also be charged the cost incurred by the city if city personnel are required
725 to collect the solid waste due to such failure.
- 726 f. Using improper truck to service commercial or commercially collected
727 residential customer solid waste.
- 728 g. Failure to provide monthly recycling reports by the 30th day after each
729 month in the format specified by the city.
- 730 h. Collection outside hours specified in section 27-79.

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

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

734 Any non-exclusive franchise issued shall be by application. The term of any non-
735 exclusive franchise shall extend until 11:59 p.m. on September 30 of each year unless forfeited
736 or revoked sooner, or be held month to month, as provided herein. In any year in which the city
737 is transitioning from non-exclusive franchises to an exclusive franchise system, the term of non-
738 exclusive franchises will be month to month instead of one year. If the city issues an exclusive
739 franchise, the term of the exclusive franchise agreement shall be as set forth in the agreement.

740 **Sec. 27-80. - Franchise fees.**

741 (a) *Amount of fee.*

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

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

754 (3) Commercial franchisees providing both commercial service and construction and
755 demolition debris collection service shall pay both fees described in subsections (1)
756 and (2) above, but shall not be required to pay the fees in Appendix A deriving from
757 subsection (2) above for vehicles which are not intended and shall never be used to
758 haul construction and demolition debris.

759 (b) Compensation payments for commercial service shall be due 20 days after the end of
760 each month, accompanied by statements of gross revenues as prescribed by the city's finance
761 department, and shall be paid directly to the city's finance department. Statements and
762 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if
763 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances
764 shall be accepted as timely if postmarked on the next succeeding workday. Compensation
765 payments for construction and demolition debris collection service shall be due on October 15 of
766 each year, and will be accepted as timely if postmarked on or before October 15, or the next
767 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.
768 Payments not received by the due date shall be assessed interest at the rate of one percent per
769 month compounded monthly from the due date.

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

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

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

780 **Sec. 27-81. - Books, records and reporting requirements.**

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

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

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

795 (d) Each commercial franchisee shall submit by September 1 of each year an updated list
796 of the type, number and complete description of all equipment to be used for providing service
797 pursuant to this division. Vehicles placed into service since the preceding September 1 shall have
798 the in-service dates noted, and vehicles no longer in service shall have the retirement dates noted.
799 Commercial and demolition debris collection service franchisees will be invoiced for all net

800 increases in vehicles operating during the prior year on a prorated basis, as well as invoiced for
801 vehicles intended to be operated during the coming year.

802 **Sec. 27-82. - Application requirements.**

803 (a) Applications for a franchise shall be made to ~~the city manager~~ public works director
804 or designee on such forms and in such manner as prescribed by the city. Application may be
805 made for one or both of the following types of franchise:

806 (1) Commercial limited to collection of garbage and trash from commercially-
807 collected residential dwellings and collection or processing of garbage and trash
808 from commercial generators.

809 (2) Construction and demolition limited to collection and disposal of construction
810 and demolition debris.

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

813 (1) If the applicant is a partnership or corporation, the name(s) and business
814 address(es) of the principal officers and stockholders and other persons having
815 financial or controlling interest in the partnership or corporation; provided,
816 however, that if the corporation is a publicly owned corporation having more than
817 25 shareholders, then only the names and business addresses of the local managing
818 officers shall be required.

819 (2) Criminal convictions, including withheld adjudication and plea of nolo
820 contendere for any felonies of the applicant if an individual, or any person having
821 any controlling interest in a firm, corporation, partnership, association or

822 organization making application, if requested by the ~~city manager~~ public works
823 director or designee.

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

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

833 (5) A list of the type, number and complete description of all equipment to be
834 used by the applicant for providing service pursuant to this division. The ~~city~~
835 ~~manager~~ public works director or designee may conduct an inspection of all
836 equipment utilized in providing the services as outlined in the franchise to
837 determine that the franchise possesses equipment capable of providing safe and
838 efficient services.

839 (6) The applicant shall maintain in full force and effect insurance as specified
840 herein and shall furnish a comprehensive general liability policy to the city manager
841 or designee or designee and also file with the city manager or designee or designee
842 a certificate of insurance for all policies written in the applicant's name. The
843 applicant shall carry in its own name a policy covering its operations in an amount
844 not less than \$200,000.00 per occurrence for bodily injury and \$200,000.00 per

845 occurrence for property damage regarding comprehensive general liability. The
846 applicant shall carry in its own name a policy covering its operation in an amount
847 not less than \$100,000.00 per person, \$200,000.00 per occurrence for bodily injury,
848 and \$50,000.00 per occurrence for property damage liability regarding automobile
849 liability insurance. The applicant shall maintain workers compensation as required
850 by Chapter 440, Florida Statutes.

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

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

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

856 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
857 deny a franchise in the case of application for new or renewed franchises, and suspend or revoke
858 a franchise for a specified period of time in the case of previously issued franchises. Just cause
859 shall include but not be limited to a failure to meet the requirements of this article, violation of
860 any of the provisions of this article or any of the ordinances of the city, or the laws of the United
861 States or the state of Florida, the violations of which reflect unfavorably on the fitness of the
862 holder to offer solid waste collection services to the public.

863 (b) Prior to denial, suspension or revocation, the applicant or holder shall be given
864 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
865 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
866 why the franchise should not be denied, revoked or suspended. The notice of ~~intention~~ the
867 proposed action shall be served upon the applicant or franchisee by registered mail or personal

868 service. The hearing shall be held no earlier than 10 days after notice is received by the
869 applicant or registrant. Notice of the final decision of the public works director or designee shall
870 be sent in writing to the applicant or registrant.

871 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the
872 ~~city manager~~ public works director or designee may appeal the decision to the city ~~commission~~
873 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the clerk of
874 the commission within ten days after the decision of the ~~city manager~~ public works director or
875 designee. The clerk of the commission shall notify the ~~city manager~~ public works director of the
876 appeal and the ~~city manager~~ public works director or designee shall forthwith transmit to the
877 clerk copies of all papers constituting the record upon which the action appealed is based. ~~The~~
878 ~~clerk of the commission shall place the appeal on the agenda of the next regularly scheduled city~~
879 ~~commission meeting which is not less than ten days from the date of the filing of the appeal. No~~
880 later than 15 days after the date of filing the appeal. The city ~~commission~~ manager shall review
881 the record and decide whether the decision of the ~~city manager~~ public works director was based
882 on competent, substantial evidence. ~~It [If] the ~~commission~~ city manager finds competent,~~
883 ~~substantial evidence for the ~~city manager~~ public works director's decision, it the city manager~~
884 ~~will uphold the ~~city manager~~ public works director 's decision; otherwise, it the city manager will~~
885 ~~reverse the ~~city manager~~ public works director 's decision. The decision of the city ~~commission~~~~
886 manager shall constitute final administrative action.

887 **Sec. 27-84. - Penalties for violation.**

888 Except as otherwise provided, ~~any person violating or failing to comply with any of the~~
889 ~~provisions~~ violations of this division shall ~~may be punished~~ enforced by civil citation if

890 specifically provided for by section 2-339, as provided by section 1-9, by code enforcement
891 proceedings, or the city may seek injunctive relief.

892 **DIVISION 3. – COMMERCIAL RECYCLING**

893 **Sec. 27-85. - Mandatory commercial recycling established.**

894 (a) Commercial generators. ~~Beginning January 1, 1997, or such later date as designated by~~
895 ~~the city manager or designee, all~~ All commercial generators ~~and generators of construction and~~
896 ~~demolition debris~~ shall separate designated recycling materials and make them available for
897 recycling. ~~The commercial generator or generator of construction and demolition debris may~~
898 ~~utilize a registrant, which includes a commercial franchisee who has obtained a registration, to~~
899 ~~collect the recycled materials.~~ The commercial generator shall either self-transport the designated
900 recyclable materials or utilize a registrant to collect and transport the designated recyclable
901 materials to a recovered materials processing facility. Failure to separate the designated
902 recyclable materials, except for de minimus amounts as determined by the city manager or
903 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
904 or a solid waste container at point of generation will subject the commercial generator to civil
905 citation as provided in sections 2-336 through 2-339 of this Code and may, in addition, result in a
906 surcharge as provided in subsection (e) below.

907 (b) ~~{Notice of noncompliant status.}~~ Before a civil citation is issued, or a surcharge can
908 be imposed, the commercial generator must be issued a notice advising of its noncompliant
909 status. The notice shall provide a compliance date. If upon subsequent inspection the commercial
910 generator is still not in compliance a civil citation will be issued.

911 (c) ~~{Separation and collection or special pick-up by city.}~~ If the city undertakes the
912 separation and collection of the designated recycled materials or otherwise performs a special

913 pick-up of garbage or trash because a commercial generator fails to separate the designated
914 recyclable materials, except for de minimus amounts as determined by the city manager or
915 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
916 or a solid waste container at point of generation, the city may have it removed and any expenses
917 incurred will be included as a surcharge in the utility bill of the commercial generator.

918 (d) Appeal. A commercial establishment may appeal the imposition of a surcharge to the
919 city manager or designee within 15 calendar days of such imposition. The notice of appeal shall
920 include all information and grounds the commercial generator wants to be considered by the city
921 manager or designee as to why the surcharge should not be imposed. The city manager or
922 designee shall have 15 calendar days to affirm or abate the surcharge. The determination of the
923 city manager or designee shall be final.

924 ~~(e) Commercially collected residential. All commercially collected residential units shall~~
925 ~~establish a recycling program that includes recycling of all designated recyclable materials and is~~
926 ~~convenient and accessible to the residents by January 1, 1997.~~

927 (f) Location of containers.

928 (1) All recovered materials shall be placed in an appropriate industry
929 standard container. Where ~~garbage cans~~ carts are used, they shall be placed ~~at the~~
930 ~~roadside or at such other single~~ collection point(s) as may be agreed to between the
931 registrant and the customer. All containers shall be kept in a safe, accessible
932 location as designated or approved by the city and agreed to by the registrant and
933 customer.

934 (2) Any commercial establishment providing receptacles for collecting and
935 disposing of garbage to the public shall provide an equal number of collection

936 receptacles for designated recyclable materials paired next to the garbage
937 receptacle. If the commercial establishment is unable to meet the above
938 requirement, the commercial establishment shall cooperate with the city to develop
939 an acceptable alternative plan for the placement of collection receptacles for
940 designated recyclable materials on the premises.

941 (3) Property owners shall provide commercial establishment tenants with
942 space for commercial service containers for garbage and recycling collection or
943 make reasonable accommodations for shared commercial service containers for
944 garbage and recycling collection in a convenient and nearby location. If the
945 property owner is unable to meet the above requirement, the property owner shall
946 cooperate with the city to develop an acceptable alternative plan for the collection
947 of waste from the tenant.

948 (gf) Maintenance of containers. If a registrant provides recovered material containers to
949 its customers, the registrant will be responsible for the proper maintenance of the container.
950 Customers that acquire their own containers from any other source are responsible for the proper
951 maintenance of the container, except that damage done by the registrant shall be the
952 responsibility of the registrant; and for ensuring that the container can be serviced by the
953 registrant's equipment. Any customer or registrant violating this paragraph shall be subject to a
954 civil citation as provided in chapter 2, article V, division 6.

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

959 (h) Requirement for a take back program for prescription drugs. Beginning January 1,
960 2023, all commercial generators distributing or providing prescription medicines or drugs at a
961 retail level shall provide on-site publicly accessible containers for the destruction of prescription
962 medicines or drugs. Such containers shall be located within 20 feet of the location where
963 prescription drugs are dispensed. If the commercial generator is unable to meet the above
964 location requirement, the commercial generator shall cooperate with the city to develop an
965 acceptable alternative plan for the placement of containers on the premises.

966 (i) Commercially-collected residential recycling. All commercially-collected residential
967 serviced property owners/developers and their affiliated entities, including but not limited to
968 landlords, management companies, condominium associations, and home owner associations
969 shall establish a recycling program that:

970 (1) includes recycling of all designated recyclable materials;

971 (2) provides an industry standard recovered materials container in a common area
972 on the property that is as convenient and accessible to the residents as garbage
973 collection containers. If the city manager or designee determines the location
974 of recovered materials containers fails to meet this requirement, the city
975 manager shall determine an appropriate location on the property for recycling
976 containers;

977 (3) provides an adequate level of service and capacity of designated recyclable
978 collection containers based on the number of residents, units, or generation at
979 the property. If the city manager or designee determines the level of service
980 and capacity of recycling containers is inadequate, the city manager shall
981 determine an appropriate level of service and capacity of recycling containers;

982 (4) prominently posts and maintains one or more signs in common areas where
983 designated recyclable materials are collected that specify the materials
984 accepted for recycling;

985 (5) distributes recycling information in printed or electronic form to each occupant
986 or unit on the property a) upon commencement of the tenant’s lease or unit
987 sale, b) at least once annually, and c) within fourteen (14) days after any
988 changes to food waste services on the property; and

989 (6) by October 1, 2023, provides at least one indoor recycling storage container
990 per unit of a type and design approved by the City for unit occupants to easily
991 transport designated recyclable materials to the collection area on the property.
992 If the occupant owns the unit, the owner of the unit shall supply their own
993 indoor recycling storage container.

994 (j) Commercially collected residential property lease transition plan.

995 (1) Beginning January 1, 2023, commercially collected residential properties with
996 at least 200 leased units that are located within the designated area shall
997 submit to the public works department a plan to divert from the landfill waste
998 stream usable and functioning household goods, furnishings, and electronics,
999 and recyclable cardboard resulting from the high volume move-in and move-
1000 out periods that occur April 20 – May 15 and July 20 - August 25 of each
1001 year. Beginning January 1, 2025, commercially collected residential
1002 properties with at least 50 leased units that are located within the designated
1003 area shall submit to the public works department a plan to divert from the
1004 landfill waste stream usable and functioning household goods, furnishings,

1005 and electronics, and recyclable cardboard resulting from the high volume
1006 move-in and move-out periods that occur April 20 – May 15 and July 20 -
1007 August 25 of each year. The designated area will be described in a map on
1008 file in the public works department, and may be revised from time to time by
1009 the public works director. The plan shall be submitted on a form prepared by
1010 the city. At a minimum the plan must contain:

1011 A. An affirmation that the commercially collected property will provide
1012 notice to tenants at least one month in advance of the move-out period
1013 that encourages the sale or donation of goods, the location of the
1014 donation collection site, and the availability of free goods at the
1015 donation collection site;

1016 B. The location of the donation collection site; and

1017 C. A plan for protection of the collected goods from adverse weather
1018 conditions (including rain); and

1019 D. Identify the local reuse organization(s) that will accept the donated
1020 goods.

1021 (2) The city shall approve or disapprove the plan within 15 business days of the
1022 plan being submitted and send written notice of the decision to the
1023 commercially-collected residential property. If approved, the proposed plan
1024 shall be implemented no later than 60 days after approval. If the plan is
1025 disapproved, the commercially-collected residential property shall re-submit
1026 the plan no later than 30 days after the date of its disapproval.

1027 (3) Failure to submit or follow the plan will result in a civil citation in accordance
1028 with division 6, article V, chapter 2. In addition, commercially-collected
1029 residential properties which are not in compliance with this subsection shall
1030 be subject to code enforcement proceedings and/or appropriate civil action in
1031 the court of competent jurisdiction for injunctive relief.

1032 (k) Exemptions. A commercial generator may request an exemption from the
1033 requirements within Section 27-85(e). The city manager or designee shall grant a request for an
1034 exemption if the commercial generator demonstrates to the satisfaction of the city manager or
1035 designee that the volume of designated recyclable materials generated is de minimus amounts
1036 or space is not available at a given property for additional container placement. Each
1037 exemption request must be completed and submitted using the standardized forms provided by
1038 the city. Commercial generators shall be notified in writing within sixty (60) days of whether
1039 their exemption request is granted or denied.

1040 **Sec. 27-86. - Registration of recovered materials collectors.**

1041 (a) *Registration required.* No person, including a commercial franchisee, shall collect,
1042 transport, convey or process recovered materials in the city without a registration certificate from
1043 the city. Each commercial franchise holder who desires to collect recovered materials as part of
1044 the commercial recycling program shall be granted a registration certificate upon ~~filling out~~
1045 completing an application and providing the necessary documentation. No application fee will be
1046 required until such time as the commercial franchise would have terminated had it not been
1047 extended by subsection 27-79.1. This subsection does not prohibit the city from entering into
1048 an exclusive franchise agreement or issuing exclusive certificates of registration for the

1049 collection of recovered materials from residential properties or commercially-collected
1050 residential properties.

1051 (b) *Application for a recovered material certificate.*

1052 (1) Applications for registration shall be obtained from and returned to the
1053 department of solid waste.

1054 (2) The applicant shall state whether it is a processor, a transporter, or both.

1055 (3) Requested information on the application shall be limited to that information
1056 required by F.S. § 403.7046.

1057 (4) The application must be accompanied by

1058 a. a copy of state certification as required by F.S. § 403.7046;

1059 b. disclosure of ownership as set forth below; and

1060 c. proof of insurance as set forth below.

1061 (c) *Renewal of registration.* The certificate of registration may be valid for five years,
1062 and may be renewed up to two times upon

1063 (1) disclosure of ownership as set forth below;

1064 (2) proof of insurance as set forth below as of the time of renewal; and

1065 (3) proof that the registrant is still providing service to customers.

1066 (d) *Operating requirements for registrants.* Persons collecting, transporting, conveying or
1067 processing recovered materials in the city shall comply with the following operating
1068 requirements:

1069 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a
1070 notarized statement disclosing the names of its owners, general and limited partners,

1071 or corporate or registered name under which it will conduct its business as
1072 authorized by this article.

1073 (2) *Response to complaint.* Each registrant shall be responsible for responding to
1074 any and all complaints which involve registrant's actions that create a nuisance or
1075 have the potential to create a nuisance. Response shall be within 24 hours of the
1076 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

1077 (3) *Clean-up.* A registrant shall handle recovered materials containers with
1078 reasonable care and return them to the approximate location from which they were
1079 collected. A registrant shall clean up all materials spilled during its collection
1080 operation.

1081 (4) *Emergencies.* A registrant shall not be required to provide collection services
1082 when all appropriate recycling sites are closed or a city emergency or imminent
1083 emergency exists, as determined by the city manager or designee. Collections shall
1084 resume on the instruction of the city manager or designee.

1085 (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be
1086 responsible for any losses or damages of any kind arising from its performance or
1087 nonperformance under its registration. The registrant shall defend at its own expense
1088 or reimburse the city for its defense, at the city's option, of any and all claims and
1089 suits brought against the city, its elected or appointed officers, employees, and
1090 agents resulting from the registrant's performance or nonperformance of service
1091 pursuant to the registration.

1092 (6) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or
1093 accidental release of recovered material during transport.

1094 (7) *Insurance.* A registrant shall purchase and maintain the types and amounts of
1095 insurance set forth below from companies authorized to do business in the State of
1096 Florida. The city shall be named as an additional insured on the general liability
1097 insurance if the registrant utilizes city facilities. Failure to maintain insurance shall
1098 result in revocation of registration.

1099 a. General liability insurance - \$500,000.00 per occurrence if the registrant
1100 utilizes city facilities.

1101 b. Commercial motor vehicle insurance as required by F.S. Ch. 627.

1102 c. Workers compensation as required by F.S. Ch. 440.

1103 (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense
1104 all local, state and federal franchises, certificates, permits or other authorizations
1105 necessary for the conduct of its operations. A registrant and its employees, officers
1106 and agents shall comply with all relevant local, state, and federal laws, rules and
1107 regulations, orders and mandatory guidelines applying to the collection or
1108 processing services being rendered.

1109 (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be
1110 deemed to be a waiver of any applicable local, state or federal law or regulation,
1111 including but not limited to zoning or planning regulations, with respect to a
1112 recycling operation of any kind, nor shall it create any vested right to own or
1113 operate any type of recycling operation.

1114 (10) *Hours of operation.* A registrant shall make available daily ~~(except Sunday)~~
1115 collection of designated recyclable materials. Collection shall begin no earlier than
1116 6:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday, except

1117 in areas of mixed residential and commercial occupancy where collections shall
1118 begin no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday
1119 through Saturday. Sunday service shall not begin before 8:00 am and cease no later
1120 than 9:00 p.m. ~~The city manager or designee may authorize collection on Sunday~~
1121 ~~where special needs of the customer make it necessary.~~

1122 (e) *Separation of residential and commercial materials.* Curbside collection of
1123 designated recyclable materials from commercial generators shall be allowed only with
1124 prior approval of the city manager or designee, when considering a request to provide
1125 curbside collection, the city manager or designee shall consider the following factors:

- 1126 (1) Accessibility of collection vehicles to property.
- 1127 (2) Available space for placement of containers.
- 1128 (3) Predominant use of property.
- 1129 (4) Safety.

1130 (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered
1131 materials dealer that has been certified by the Florida Department of Environmental
1132 Protection or subsequent responsible agency, and the city.

1133 (g) *Reports.*

1134 (1) The recovered materials registrants shall submit to the city manager or
1135 designee reports as authorized by F.S. § 403.7046, and the regulations promulgated
1136 pursuant to the authority stated in statute.

1137 (2) Within 15 days of changing facilities where recovered materials is being
1138 delivered, recovered materials registrants shall provide the name and location of the
1139 new facilities to the city manager or designee.

1140 **Sec. 27-87. - Revocation of registration.**

1141 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
1142 deny a registration in the case of application for a new or renewed registration, and suspend or
1143 revoke a registration for a specified period of time in the case of previously issued registration.
1144 Just cause shall be consistent and repeated violation of state or local laws, ordinances, rules, and
1145 regulations relating to the applicant's or registrant's operation; or loss of state certification as a
1146 recovered materials dealer.

1147 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
1148 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
1149 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
1150 why the registration should not be denied, revoked or suspended. The notice of ~~intention~~ the
1151 proposed action shall be served upon the applicant or registrant by registered mail or personal
1152 service. The hearing shall be held no earlier than 10 days after notice is received by the
1153 applicant or registrant. Notice of the final decision of the public works director or designee shall
1154 be sent in writing to the applicant or registrant.

1155 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the
1156 ~~city manager~~ public works director or designee may appeal the decision to the city ~~commission~~
1157 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city
1158 ~~clerk of the commission~~ within ten days after the decision of the ~~city manager~~ public works
1159 director or designee. The city clerk shall inform the ~~city manager~~ public works director of the
1160 appeal, and the ~~city manager~~ public works director or designee shall forthwith transmit to the city
1161 clerk copies of all papers constituting the record upon which the action appealed is based. ~~The~~
1162 ~~clerk shall place the appeal on the agenda of the next regularly scheduled city commission~~

1163 ~~meeting which is not less than ten days from the date of the filing of the appeal. No later than 15~~
1164 ~~days after the date of filing the appeal, T~~the city commission manager shall review the record
1165 and decide whether the decision of the ~~city manager~~ public works director was based on
1166 competent, substantial evidence. ~~It [If]~~ If the ~~commission~~ city manager finds competent,
1167 substantial evidence for the ~~city manager~~ public works director 's decision, the city manager will
1168 uphold the ~~city manager~~ public works director's decision; otherwise, the city manager will
1169 reverse the ~~city manager~~ public works director 's decision. The decision of the city ~~commission~~
1170 manager shall constitute final administrative action.

1171 **Sec. 27-88. - Penalties for violation.**

1172 Except as otherwise provided, ~~any person violating or failing to comply with any of the~~
1173 ~~provisions~~ violations of this division ~~shall~~ may be punished enforced by civil citation if
1174 specifically provided for by section 2-339, as provided by section 1-9 of this Code of
1175 Ordinances, by code enforcement proceedings, or the city may seek injunctive relief.

1176 **Section 2.** A new Division 4 within Article III of Chapter 27 of the Gainesville Code of
1177 Ordinances is created to read as set forth below. Division 5 is amended to read as set forth
1178 below. Except as amended herein, the remainder of Chapter 27 remains in full force and effect.

1179 **DIVISION 4. RESERVED. SINGLE-USE PLASTIC AND POLYSTYRENE**

1180 **PRODUCTS.**

1181 **DIVISION 5. PLASTIC STRAWS AND STIRRERS RESERVED.**

1182 **Sec. 27-~~9289~~. - Definitions.**

1183 The following words, terms and phrases, when used in this article, shall have the meanings
1184 ascribed to them in this section, except where the context clearly indicates a different meaning:

1185 Expanded polystyrene container means any plate, bowl, cup, container, lid, tray, cooler,
1186 ice chest, and similar items that are made of blown polystyrene and expanded and extruded
1187 foams that are thermoplastic petrochemical materials utilizing a styrene monomer and
1188 manufactured by fusion of polymer spheres (expandable bead foam), injection molding, foam
1189 molding and extrusion-blown molding (extruded foam polystyrene) or any other technique.

1190 Beverage Prepared food provider means a person or entity that provides food (including
1191 beverages) directly to the consumer, that is ready for immediate consumption without any further
1192 cooking, mixing, preparation, alteration or repackaging regardless of whether such food beverage
1193 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether
1194 the food beverage is provided from a building, pushcart, stand or vehicle. Prepared Food
1195 Beverage providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,
1196 delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,
1197 bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

1198 Single-use plastic food accessory means any item which is made predominantly of plastic
1199 derived from petroleum polymer or a biologically-based polymer and is provided for one-time
1200 use with prepared food (including beverages), such as utensils, chopsticks, portion cups,
1201 condiment packets, and other similar accessories. This definition excludes items that are
1202 provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and
1203 cup trays.

1204 Single-use plastic straw means a disposable tube used for the purpose of consuming
1205 beverages and intended for one-time use, which is made predominantly of plastic derived from
1206 petroleum polymer or a biologically-based polymer.

1207 *Single-use plastic stirrer* means a device that is used to mix beverages and intended for
1208 one-time use, and made predominantly of plastic derived from a petroleum polymer or a
1209 biologically based polymer.

1210 **Sec. 27-~~93~~90. - Prohibition on single-use plastic straws and single-use plastic stirrers.**

1211 (a) ~~Beverage~~ Prepared food providers shall not sell, use, offer for sale or use, or provide
1212 to any person a single-use plastic straw or single-use plastic stirrer.

1213 (1) Exceptions: Although the discontinuation of the use of single-use plastic straws
1214 and single-use plastic stirrers is strongly encouraged, this article shall not apply to
1215 the sale or use of single-use plastic straws or single-use plastic stirrers as follows:

1216 a. Pre-packaged beverages with a single-use plastic straw or single-use plastic
1217 stirrer that are prepared and packaged outside the city and are not altered,
1218 packaged or repackaged within the city.

1219 b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers
1220 that are offered for retail sale to a consumer for personal use, that are prepared
1221 and packaged outside the city and are not altered, packaged or repackaged
1222 within the city.

1223 c. By medical or dental facilities.

1224 d. By hospitals.

1225 e. By nursing homes or assisted living facilities.

1226 f. By any disabled person that requires or relies on same to consume beverages
1227 and/or food supplements.

1228 **Sec. 27-91. – Single-Use Plastic Food Accessories available upon request.**

1229 Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out
1230 or delivery, unless the single-use food accessory is specifically requested by the customer or is
1231 provided at a customer self-serve station.

1232 **Sec. 27-92. - Prohibition on use of expanded polystyrene containers on city property or city**
1233 **right-of-way.**

1234 Any person or entity that is required to obtain a permit, use agreement, or other authorization or
1235 approval to use city property or city right-of-way pursuant to Chapter 18, Article II. Park
1236 Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and Chapter 30, Article V. Use
1237 Standards after the effective date of this ordinance, is prohibited from using expanded
1238 polystyrene containers for the permitted activity on city property or city right-of-way. This
1239 prohibition excludes the distribution of any prepackaged food that is filled and sealed in an
1240 expanded polystyrene container prior to receipt by the person or entity and it excludes raw meat
1241 or seafood that is stored in an expanded polystyrene container and sold from a refrigerated
1242 display or storage case.

1243 **Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and**
1244 **balloons.**

1245 All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or
1246 balloons. Consistent with Section 379.233, Florida Statutes, the following balloon releases are
1247 exempt from the above prohibition: (a) balloons released by a person on behalf of a
1248 governmental agency or pursuant to a governmental contract for scientific or meteorological
1249 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either
1250 biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation
1251 Commission, and which are closed by a hand-tied knot in the stem of the balloon without string,

1252 ribbon, or other attachments. The party responsible for the release shall make available evidence
1253 of the biodegradability or photodegradability of said balloons in the form of a certificate
1254 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a
1255 violation of this act.

1256 **Sec. 27-94. - Enforcement; penalties; injunctive relief.**

1257 The city may enforce this ~~article~~ division by civil citation in accordance with chapter 2, article V,
1258 division 6. In addition, persons who are not in conformity with these requirements shall be
1259 subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

1260 **Section 3.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
1261 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
1262 and effect.

1263 **Sec. 2-339. – Applicable codes and ordinances.**

1264 The following ordinances are enforceable by the procedures described in this division:

<u>Division 3, Article III of Chapter 27</u>	<u>Maintenance of containers</u>	<u>II</u>	<u>\$250.00</u>
<u>Division 3, Article III of Chapter 27</u>	<u>Failure to submit lease transition plan.</u>	<u>II</u>	<u>\$250.00</u>
Division 4, Article III of Chapter 27	Single-use plastic and polystyrene products <u>straws and</u> single-use plastic stirrers	II	\$250.00

1265
1266 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1, 2,
1267 and 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
1268 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
1269 renumbered or relettered in order to accomplish such intentions.

