

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by revising definitions; adding requirements for commercial generators of solid waste, commercially-collected residential property, and recovered material registrants; requiring commercially-collected properties of a certain size to have a lease transition plan; requiring prescription drug distributors to provide take back programs for prescription drugs; requiring commercial establishments to have additional recycling containers; requiring property owners to provide commercial tenants with adequate space for solid waste and recycling; creating a new division regulating single-use plastic and polystyrene products; providing for civil citations; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

WHEREAS, on August 15, 2019, the City Commission adopted Ordinance No. 180678, which prohibited single-use plastic straws and single-use plastic stirrers; and

WHEREAS, on February 27, 2020, the City Commission approved creation of a Commission Subcommittee to, among other things, develop a draft zero waste ordinance; and

WHEREAS, at numerous meetings, the Subcommittee directed staff to work on preparing ordinances that addressed a variety of issues related to solid waste, recycling, and food waste; and

WHEREAS, new regulations regarding food waste will be addressed in separate ordinances; and

WHEREAS, the City Commission finds that this Ordinance will protect the public health, safety and welfare of City residents, visitors and future generations and will protect the environment by reducing solid waste and; and

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 commercial establishments that dispense prescriptions
49 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 Subcommittee directed staff to work on preparing ordinance(s) that
58 would restrict and/or prohibit certain single-use plastic and polystyrene products within the City
59 with the goal of reducing overall solid waste and the use of disposable plastic and polystyrene
60 products that are harmful to the environment; and

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

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

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

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

72 **CHAPTER 27 - UTILITIES**

73 **ARTICLE III – SOLID WASTE DISPOSAL**

74 **DIVISION 1. - GENERALLY**

75 **Sec. 27-71. - Purpose.**
76
77

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

82 **Sec. 27-72. - Definitions.**

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

84 *Applicant* shall mean

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

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

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

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

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

101 *Certified recovered materials dealer* shall mean a dealer certified as provided in F.S. §
102 403.7046.

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

104 *Commercial establishment* shall mean any property used primarily for business activities.
105 Commercial establishment does not include residential properties, even if such residential
106 properties are managed or owned by a commercial entity.

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

- 109 (a) commercial service;
110 (b) collection of construction and demolition debris.

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

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

- 116 (1) a licensed mobile home park ~~exceeding four~~ with five or more dwelling units;:
117 (2) multi-family residences ~~exceeding four~~ with five or more dwelling units under one
118 common roof;:
119 (3) any residential property that has opted-out of residential service under the terms of
120 this article and is eligible to receive commercially collected residential service;:
121 (4) business, commercial or industrial enterprises of all types licensed to do business in
122 the city.

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

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

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

189 *Living unit* shall mean a place where people reside on a non-transient basis, containing a
190 room or rooms comprising the essential elements of a single housekeeping unit. Each separate

191 facility for the preparation, storage and keeping of food for consumption within the premises
192 shall be considered a separate living unit.

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

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

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

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

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

212 *Registrant* shall be mean

213 (a) a person who has made application with the city to collect, transport, convey or
214 process recovered materials in the city and has subsequently received a registration certificate
215 from the city~~;~~or

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

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

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

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

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

234 *Trash* shall mean ~~accumulations of paper, magazines, packaging, containers, sweepings~~
235 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~

236 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~
237 ~~offices and other business places~~ nonputrescible debris that is generated by households,
238 businesses, and institutions.

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

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

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

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

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

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

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

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

253 (a) Commercial generators transporting their own debris;

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

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

259 (a) Persons whose primary business is freight transport that may involve the intermittent
260 transport of recovered materials;

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

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

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

270 (6) To allow solid waste or recovered materials to spill, blow or drop from any vehicle on
271 any road or to transport any solid waste or recovered material over any public road unless the
272 solid waste or recovered material is securely tied or covered so as to prevent leakage or spillage
273 onto the road;

274 (7) To place or store solid waste on any property for a period in excess of one week, unless it
275 is securely contained or covered.

276 (8) To deposit or dispose of any garbage or trash on the paved or traveled portion of any
277 public street, or any alleyway, sidewalk, bike path, stream, ditch, river, pond, bay, creek, park,
278 other right-of-way or public place in the city except at areas as may be designated by the city.

279 (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or
280 landfill within the city without first obtaining the permission of the custodian thereof;

- 281 (10) To burn any garbage or trash within the city, except at designated incinerators or
282 landfills, without first obtaining a permit from the city;₂
- 283 (11) To produce or accumulate any construction and demolition debris, tree branches or
284 similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or
285 building contractor), without removal of the same to a designated disposal area;₂
- 286 (12) To allow any scattered garbage or trash to remain at or near the curbside, or to fail to
287 remove any windblown or animal scattered garbage or trash from a public area and right-of-way
288 which have blown or otherwise scattered from the person's dwelling unit curbside collection
289 point;₂
- 290 (13) To place any solid waste or ~~recyclable~~ recovered materials out for collection by any alley
291 service drive, easement or right-of-way not serviced by collection trucks;₂
- 292 (14) To place any solid waste or ~~recyclable~~ recovered materials out for collection adjacent to
293 the street if collection trucks service the area from an established alley;₂
- 294 (15) To place any solid waste or ~~recyclable~~ recovered materials in an underground container
295 for pickup;₂
- 296 (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of
297 the city.
- 298 (17) To deposit any hazardous waste as defined in F.S. § 403.703, in any cart or commercial
299 service container;₂
- 300 (18) To place or cause to be placed any garbage, trash, ~~recyclable~~ recovered materials or other
301 solid waste in the cart or commercial service container belonging to another without proper
302 authority;₂

303 (19) To remove any materials, without proper authority, from any container belonging to
304 another which contains materials set out for recycling.

305 (20) To mix yard ~~trash~~ waste with normal solid waste loads, whether for residential or
306 commercial service.

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

309 (22) To collect garbage, trash, recovered material, or food waste in a container without a
310 properly sized or fitted cover, except for residential curbside recycling bins designed to be open-
311 topped containers.

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

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

317 (b) The city manager or designee is responsible for the enforcement of regulations
318 regarding storage, collection, conveyance and disposal of all solid waste and ~~recyclable~~
319 recovered materials generated within the city, including accumulations of same that may be in
320 violation of this article or other solid waste regulations. Except as otherwise provided, provisions
321 of this division may be enforced by civil citation if specifically provided for by section 2-339, as
322 provided by section 1-9, enforced by code enforcement proceedings, or the city may seek
323 injunctive relief. If a A notification of violation will be was provided and correction of the
324 violation shall be was not made in the time specified by the notice; however, failing correction,
325 the city is hereby authorized to collect and dispose of the material causing the violation and to

326 bill the customer or owner of record of the property for the cost of providing this additional
327 collection and disposal service.

328 (c) The city manager or designee will be responsible for posting the current list of
329 designated recycling materials on the city website.

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

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

335 (b) *Collection frequency and method:* ~~Each~~ Commercial generators or commercially-
336 collected residential service customers shall enter into an agreement with a franchisee of the city
337 for the frequency and method of refuse garbage collection except where 1) landlords provide
338 service through a franchisee, or 2) commercial generators reach a dumpster sharing arrangement
339 with an adjacent generator or a generator whose shared dumpster is within 500 feet (or further if
340 approved by the city manager or designee) of each commercial generator's service door and one
341 of the generators has an agreement with a franchisee. If a commercial generator has a dumpster
342 sharing arrangement, proof of such an arrangement shall be submitted to the city upon request.
343 Except as provided below, sSuch service shall be received no less than one time per week with
344 no exception for holidays, except that collection service scheduled to occur on a holiday may be
345 rescheduled with written notice to the customer as long as minimum frequency is met. Collection
346 service provided to compactors is exempt from this minimum frequency. Commercially-
347 collected residential service not serviced by a compacting dumpster shall receive a minimum of
348 twice per week service. Alcoholic beverage establishments, grocery stores, and restaurants not

349 serviced by a compacting dumpster shall receive a minimum of four (4) times per week service.

350 When necessary to protect the public health or to enforce the purpose of this article, the city
351 manager or designee shall have the authority to stipulate the frequency of collection or require
352 the implementation of a plan to eliminate the hazard. Service shall consist of the mechanical
353 dumping of commercial containers capable of being unloaded by proper equipment; or a manual
354 hand service dumping of containers located at agreed upon sites upon the property; or other
355 levels of service as may be required or agreed to. If the franchisee fails to perform collection
356 according to the contract, the customer shall have 30 days from the first such failure to enter into
357 an agreement with another franchisee before being cited for violation of this subsection.

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

370 (d) *Commercial service containers.* The following commercial service container
371 standards are guidelines under which the owners of containers, as well as the lessees of

372 containers, will conform in order to ensure a healthy and aesthetically pleasing environment for
373 the ~~citizens~~ residents and visitors of the city:

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

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

379 a. A serial or property control number;

380 b. "NO PARKING," "UNAUTHORIZED ENTRY OR USE PROHIBITED,"
381 AND "DEPOSITING OF FLAMMABLE LIQUIDS OR EXPLOSIVES
382 PROHIBITED" labeled conspicuously across its front.

383 c. By October 1, 2022, every solid waste commercial service container, except
384 for construction and demolition debris collection containers, shall follow the
385 City's approved color and educational labeling format as set forth in regulations
386 maintained on file with the solid waste division. The city manager or designee
387 may waive the educational labeling requirements of this section if it is determined
388 to be in the best interest of the city.

389 (3) Every recovered materials container shall be clearly and conspicuously labeled
390 across the front of the container with the following information:

391 a. "RECYCLING", "RECYCLING ONLY" or "RECYCLE HERE".

392 b. "NO GARBAGE".

393 c. List of designated recyclable materials accepted in that container, such as
394 “CARDBOARD ONLY,” that is texted-based, image-based or a
395 combination of text and images.

396 d. Educational labeling shall be:
397 i. Clearly and conspicuously placed on and consist of at least twenty-five
398 (25) percent of the area of the front loading side of dumpsters or cart
399 lids;
400 ii. Printed in both the English and Spanish language.

401 (4) Every organic materials container shall be clearly and conspicuously labeled
402 across the front of the container with the following information:

403 a. “YARD WASTE ONLY”, “COMPOST ONLY” or “FOOD WASTE
404 ONLY”.

405 b. “NO GARBAGE”.

406 c. List of organic materials accepted in that container that is texted-based,
407 image-based or a combination of text and images.

408 d. Educational labeling shall be:
409 i. Clearly and conspicuously placed on and consist of at least twenty-
410 five (25) percent of the area of the front loading side of dumpsters or
411 cart lids;

412 ii. Printed in both the English and Spanish language.

413 (35) Each container ~~must~~ shall be free of rust holes, broken hinges or broken door

414 fasteners and will have solid substantial bottoms with at least one drain hole for

415 purposes of cleanout.

416 (4-6) All necessary containers ~~will~~ shall have properly fitting lids and or side door(s) in
417 place that close automatically when lifted and that will prevent the entry of
418 rodents, snakes and other animals, and allow for opening and closing action
419 during the emptying cycle. Containers used for storage of materials other than
420 garbage must meet the same criteria, ~~except that lids~~ Lids or covers may not be
421 required if the city manager or designee determines that it does not pose a threat
422 to the health, welfare or safety of the ~~citizens~~ residents and visitors, or cleanliness
423 of the container site or adjacent community.

424 (5 ~~7~~) Containers at commercial locations are not to be filled to a height exceeding the
425 level of the highest portion of the container body or rim. This limitation applies to
426 dumpsters, cans, bins or any other method employed for storage. Customers must
427 arrange for items such as furniture, appliances, construction and demolition debris
428 or any material not considered a part of the customer's normal collection service
429 to be picked up within seven days of being placed for collection. If these items are
430 not picked up within seven days of being placed for collection, the city manager
431 or designee may provide notice to the customer by hand delivery or certified mail,
432 return receipt requested. If the customer has not removed the refuse within 24
433 hours after notification by the city, the city manager or designee may order such
434 removal and all costs incurred shall be placed against the customer's utility
435 account. At no time will any solid waste or storage containers be placed on the
436 travel portions of any walk, street or alley within the city without prior
437 authorization from the city manager or designee.

438 (6 8) The city waste control inspector shall notify the owners and/or lessees of
439 containers not maintained in a condition of good repair or in violation of any
440 provision of this section either by hand delivery of such notice or by sending
441 notice by certified mail, return receipt requested and shall also post a notice in a
442 conspicuous place on the premises. After notice is given in writing, the owner
443 and/or lessee will have 24 hours in which to repair or replace any container that is
444 a hazard during the unloading cycle and seven working days in which to repair or
445 replace all other violations.

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

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

451 (a) *Provided.* Residential service shall consist of curbside collection of all garbage and
452 designed recyclable materials household trash, and an optional service of backyard collection of
453 garbage and designated recyclable materials household trash.

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

455 (1) *Garbage and household trash:*

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

460 different size upon paying the fee as listed in Appendix A. Damaged and stolen
461 carts will be replaced on request.

462 b. All garbage ~~and household trash~~ shall be drained of free liquids and stored for
463 collection in the assigned cart, or in pre-paid garbage disposal bags, as
464 accumulated. The cart shall not be filled above a height allowing the attached
465 lid to be completely closed, nor shall the prepaid garbage disposal bags be
466 filled such that ~~they~~ the bags cannot be securely fastened shut or weigh over 40
467 pounds. The bags may be placed inside non-disposable containers. The
468 assigned cart and the pre-paid garbage disposal bags shall be placed at the curb
469 or roadside no earlier than 5:00 p.m. on the day preceding the scheduled
470 collection day, and the emptied carts and non-disposable containers shall be
471 removed from the curbside location not later than 9:00 p.m. of the day of
472 collection. The carts and non-disposable containers shall be removed and kept,
473 except during the hours permitted by this section for the placement of them for
474 collection, at a location where they are not clearly visible from any public
475 street. It shall be unlawful and punishable as provided for any owner or
476 occupant to place, permit the placing of or allow the continued location of
477 ~~garbage and household trash~~ collection containers in any location or at any
478 times not provided for in this subsection. Garbage ~~and household trash~~ placed
479 in containers other than the assigned cart or pre-paid approved garbage
480 disposal bags will not be collected. Non-disposable or reusable containers
481 intended not to be picked up by the collectors shall be clearly and appropriately
482 identified. Anyone placing garbage ~~or household trash~~ in containers other than

483 the assigned cart or pre-paid garbage disposal bags will be in violation of this
484 article.

485 c. Any container, other than the assigned cart, that is allowed to remain at
486 curbside or roadside at times other than those permitted by this section, and
487 any container, other than the assigned cart, that has become damaged or
488 deteriorated, may be impounded by the city. The owner of any such container
489 so impounded shall be notified immediately in writing by the city by mail to
490 the address where picked up or by placing a notice thereof in a conspicuous
491 place on such premises, or both. The owner may redeem such impounded
492 containers within 30 days after the same are impounded by the city by paying
493 the charges in accordance with the schedule set out in Appendix A. Any
494 container not redeemed within the 30-day period may be used by the city in
495 any manner as the city may determine in furtherance of the waste control
496 program or may be sold to the highest bidder at a noticed public sale for each,
497 which cash shall be deposited in the general fund of the city.

498 (2) *Yard ~~trash~~ waste*. Yard ~~trash~~ waste that is properly bundled or containerized in such
499 manner to enable one person to lift the trash in a single lifting movement to place
500 same in the compaction truck, and which bundles or containers do not exceed 40
501 pounds in weight and five feet in length, will be collected at curb or roadside. If tree
502 or shrubbery trimmings are not containerized they may be placed at curbside in a
503 compact pile not containing any items exceeding 40 pounds in weight and five feet
504 in length and will be picked up. Grass, leaves and pine straw must be containerized
505 by either using disposable or reusable containers, and will be collected if properly

506 placed for collection at curb or roadside. Non-disposable or reusable containers
507 intended not to be picked up by the collectors shall be clearly and appropriately
508 identified. Concrete, dirt, bricks, appliances, furniture or similar items are not
509 considered yard ~~trash~~ waste, and will not be collected except by special service as
510 described in section 27-77.

511 (3) Recycling Containers ~~Bin provided~~. Each dwelling unit shall be provided a ~~bin~~
512 container for the purpose of storage and disposal of designated recyclable materials.
513 Designated ~~R~~recyclable materials that meet the requirements set forth by the city
514 manager or designee shall be collected from curb or roadside. Designated
515 ~~R~~recyclable materials not fitting in the bin may be placed in non-disposable
516 containers or paper bags and will be collected at curb or roadside.

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

522 (d) *Backyard option and service fee exception.* The residential service program will allow
523 customers the option of requesting backyard collection. (This does not include yard ~~trash~~
524 waste.) Such requests must be made in writing to the city manager or designee 30 days in
525 advance of the start of service and once requested, such service and associated fees shall
526 remain in effect for a minimum of six months. Service charges for backyard service as
527 specified in the schedule set out in Appendix A may be waived and the uniform curbside
528 service charge applied where all occupants of the dwelling unit are physically ~~incapacitated~~

529 ~~and~~ unable to transport their cart and bin to the curb. Customers desiring backyard service at
530 the curbside rate must be certified as to the necessity for this service by the city manager or
531 designee who may impose such reasonable conditions as may be required for such service
532 and certification.

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

539 (f) *Residential service exclusion.*

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

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

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

546 a. Applicant's name.

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

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

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

- 554 a. Collection history (whether commercial or residential)
- 555 b. Accessibility of collection vehicles to property.
- 556 c. Available space for placement of carts.
- 557 d. Predominant use of property.
- 558 e. Safety.
- 559 f. Level of service requested by residents.

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

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

566 ~~(7) If the exclusion is approved, the applicant must contract for recycling service~~
567 ~~specified in section 27-85. Regardless of whether owners of a building petition the~~
568 city for a residential service exclusion, the city manager or designee may require
569 separate developments that share common infrastructure (such as a shared parking lot),
570 ownership, property management, or home owner association but have four or less
571 units per building to have commercially collected residential service when the city
572 manager or designee has determined it is in the best interest of the city for operational

573 or aesthetic reasons to provide commercially-collected residential service to the
574 developments,

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

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

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

584 **Sec. 27-78. - Reserved.**

585 **DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION**
586 **DEBRIS FRANCHISE**

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

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

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

594 (c) Each franchise shall be subject to the charter of the city and this Code of Ordinances.
595 Each franchise shall be subject to, and franchisees shall abide by, all present and future laws,

596 regulations, orders of regulatory bodies, city code provisions and administrative rules applicable
597 to the performance of the collection services hereunder. Each franchise shall obtain all licenses
598 and permits presently required by federal, state and local governments, and as required from time
599 to time.

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

603 (e) Collection times shall be as follows:

604 (1) Each commercial franchisee shall make available daily ~~(except Sunday)~~
605 collection of solid waste. Collection shall begin no earlier than 6:00 a.m. and shall
606 cease no later than 9:00 p.m., Monday through Saturday, except that in areas of
607 mixed residential and commercial occupancy collections shall begin no earlier than
608 7:00 a.m. and cease no later than 9:00 p.m., Monday through Saturday. Sunday
609 service shall not begin before 8:00 am and cease no later than 9:00 p.m.

610 ~~(2) Notwithstanding paragraph (e)(1), the city manager or designee may set~~
611 ~~other hours for the purpose of improving collection operations or safety, by the city~~
612 ~~first holding a neighborhood workshop to inform various residents, businesses and~~
613 ~~other stakeholders of the change being considered, and to solicit their input. The~~
614 ~~workshop will be held in a location generally near the subject area in a facility that~~
615 ~~is ADA compliant. The city will provide notification by mail to all owners of~~
616 ~~property and neighborhood associations within the area being considered as well as~~
617 ~~those within 400 feet of the perimeter of that area. The notices will be mailed at~~
618 ~~least 14 days before the workshop and the city will also advertise the workshop in a~~

619 newspaper of general circulation at least 14 days before the date of the workshop.
620 The workshop must start between 6:00 p.m. and 8:00 p.m. on a weekday or between
621 9:00 a.m. and 5:00 p.m. on a weekend. The city shall prepare a written summary of
622 the neighborhood meeting that includes a list of those in attendance, a summary of
623 the issues discussed, and comments, concerns and suggestions by those in
624 attendance. Any change in collection times shall be established in a written
625 memorandum outlining the justification. All memoranda establishing collection
626 times, and summaries of the neighborhood meetings, shall be retained on file by the
627 solid waste division and made available to the public for inspection. These
628 collection times should be reviewed periodically to determine whether the
629 operational justification continues to exist.

630 (3 2) Notwithstanding paragraph (e)(1), the city manager or designee may
631 authorize collection on Sunday where special needs of the customer make it
632 necessary. In the event of an emergency, a franchisee may collect at times not
633 allowed by this section, provided the city manager grants prior approval, to be later
634 evidenced by a written memorandum. If no written memorandum is obtained, there
635 shall be a presumption that the franchisee had not obtained prior approval. All
636 written memoranda issued shall be retained on file by the solid waste division and
637 made available to the public for inspection.

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

640 (g) The franchise granted hereunder may be exclusive. Any exclusive franchise granted
641 by the city shall be selected through a competitive procurement process. The city reserves the

642 right to grant similar rights or franchises to more than one person or corporation as well as the
643 right in its own name to use its streets for purposes similar to or different from those allowed to
644 franchisees hereunder.

645 ~~(h) For all contracts between customers and commercial franchisees as of January 1,~~
646 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~
647 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~
648 ~~recycling program.~~

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

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

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

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

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

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

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

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

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

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

684 (1) All complaints received by the city and reported to the franchisee shall be
685 promptly resolved. Any complaint received by the franchisee shall be entered on a

686 form approved by the city. All complaints received during the business day shall be
687 transmitted on the approved form by 5:00 p.m. each business day. Any complaint
688 received before noon shall be resolved the same business day. All other complaints
689 shall be resolved by the end of the next business day.

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

- 695 a. Commingling solid waste with ~~vegetative~~ yard waste and/or designated
696 recyclable materials.
- 697 b. Failure to replace damaged container within seven days of notification (48
698 hours for commercially collected residential customers).
- 699 c. Throwing of garbage cans or recycling containers.
- 700 d. Failure to transmit commercial complaint forms as specified in this
701 subsection.
- 702 e. Failure to repair damage to customer's property.

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

- 705 a. Failure to provide clean, safe, sanitary equipment.
- 706 b. Failure to maintain required office hours.
- 707 c. Failure to maintain proper licenses.

- 708 d. Failure to display franchisee name and phone number on equipment or
709 containers.
- 710 e. Failure to collect solid waste upon notification by city. Franchisee will
711 also be charged the cost incurred by the city if city personnel are required
712 to collect the solid waste due to such failure.
- 713 f. Using improper truck to service commercial or commercially collected
714 residential customer solid waste.
- 715 g. Failure to provide monthly recycling reports by the 30th day after each
716 month in the format specified by the city.
- 717 h. Collection outside hours specified in section 27-79.
- 718 i. Failure to clean up spillage of any substance required to be cleaned up
719 pursuant to federal, state or local laws, rules or ordinance.

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

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

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

728 (a) *Amount of fee.*

729 (1) The commercial franchisee providing commercial service shall pay as
730 compensation to the city, for the rights and benefits granted hereunder, a monthly fee

731 as described in Appendix A. For purposes of the calculation stated as Appendix A,
732 gross revenues shall consist of all revenues from the sale or lease of containers, all
733 revenues from garbage and trash collection services, all disposal billed, late fees, bad
734 debt recoveries and other fees collected from customers, with no deductions except
735 for bad debts actually written off.

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

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

746 (b) Compensation payments for commercial service shall be due 20 days after the end of
747 each month, accompanied by statements of gross revenues as prescribed by the city's finance
748 department, and shall be paid directly to the city's finance department. Statements and
749 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if
750 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances
751 shall be accepted as timely if postmarked on the next succeeding workday. Compensation
752 payments for construction and demolition debris collection service shall be due on October 15 of
753 each year, and will be accepted as timely if postmarked on or before October 15, or the next

754 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.
755 Payments not received by the due date shall be assessed interest at the rate of one percent per
756 month compounded monthly from the due date.

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

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

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

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

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

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

775 (c) Each commercial franchisee providing commercial service shall file an annual report
776 including a schedule of total gross revenues as defined in section 27-80(a). This annual report

777 shall be examined by an independent certified public accountant ("auditor") to certify that the
778 computation of gross revenue used to calculate franchise fees remitted is in accordance with the
779 terms of the franchise. The auditor's report shall state that the examination was performed in
780 accordance with professional standards established by the AICPA and shall be filed with the city
781 manager or designee within 120 days of the franchisee's year end.

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

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

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

793 (1) Commercial limited to collection of garbage and trash from commercially-
794 collected residential dwellings and collection or processing of garbage and trash
795 from commercial generators.

796 (2) Construction and demolition limited to collection and disposal of construction
797 and demolition debris.

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

800 (1) If the applicant is a partnership or corporation, the name(s) and business
801 address(es) of the principal officers and stockholders and other persons having
802 financial or controlling interest in the partnership or corporation; provided,
803 however, that if the corporation is a publicly owned corporation having more than
804 25 shareholders, then only the names and business addresses of the local managing
805 officers shall be required.

806 (2) Criminal convictions, including withheld adjudication and plea of nolo
807 contendere for any felonies of the applicant if an individual, or any person having
808 any controlling interest in a firm, corporation, partnership, association or
809 organization making application, if requested by the ~~city manager~~ public works
810 director or designee.

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

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

820 (5) A list of the type, number and complete description of all equipment to be
821 used by the applicant for providing service pursuant to this division. The ~~city~~
822 ~~manager~~ public works director or designee may conduct an inspection of all

823 equipment utilized in providing the services as outlined in the franchise to
824 determine that the franchise possesses equipment capable of providing safe and
825 efficient services.

826 (6) The applicant shall maintain in full force and effect insurance as specified
827 herein and shall furnish a comprehensive general liability policy to the city manager
828 or designee or designee and also file with the city manager or designee or designee
829 a certificate of insurance for all policies written in the applicant's name. The
830 applicant shall carry in its own name a policy covering its operations in an amount
831 not less than \$200,000.00 per occurrence for bodily injury and \$200,000.00 per
832 occurrence for property damage regarding comprehensive general liability. The
833 applicant shall carry in its own name a policy covering its operation in an amount
834 not less than \$100,000.00 per person, \$200,000.00 per occurrence for bodily injury,
835 and \$50,000.00 per occurrence for property damage liability regarding automobile
836 liability insurance. The applicant shall maintain workers compensation as required
837 by Chapter 440, Florida Statutes.

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

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

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

843 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
844 deny a franchise in the case of application for new or renewed franchises, and suspend or revoke
845 a franchise for a specified period of time in the case of previously issued franchises. Just cause

846 shall include but not be limited to a failure to meet the requirements of this article, violation of
847 any of the provisions of this article or any of the ordinances of the city, or the laws of the United
848 States or the state of Florida, the violations of which reflect unfavorably on the fitness of the
849 holder to offer solid waste collection services to the public.

850 (b) Prior to denial, suspension or revocation, the applicant or holder shall be given
851 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
852 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
853 why the franchise should not be denied, revoked or suspended. The notice of ~~intention~~ the
854 proposed action shall be served upon the applicant or franchisee by registered mail or personal
855 service. The hearing shall be held no earlier than 10 days after notice is received by the
856 applicant or registrant. Notice of the final decision of the public works director or designee shall
857 be sent in writing to the applicant or registrant.

858 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the
859 ~~city manager~~ public works director or designee may appeal the decision to the city ~~commission~~
860 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the clerk of
861 the commission within ten days after the decision of the ~~city manager~~ public works director or
862 designee. The clerk of the commission shall notify the ~~city manager~~ public works director of the
863 appeal and the ~~city manager~~ public works director or designee shall forthwith transmit to the
864 clerk copies of all papers constituting the record upon which the action appealed is based. ~~The~~
865 ~~clerk of the commission shall place the appeal on the agenda of the next regularly scheduled city~~
866 ~~commission meeting which is not less than ten days from the date of the filing of the appeal. No~~
867 later than 15 days after the date of filing the appeal. ~~The city~~ ~~commission~~ manager shall review
868 the record and decide whether the decision of the ~~city manager~~ public works director was based

869 on competent, substantial evidence. ~~It [If] the commission~~ city manager finds competent,
870 substantial evidence for the ~~city manager~~ public works director's decision, ~~it~~ the city manager
871 will uphold the ~~city manager~~ public works director 's decision; otherwise, ~~it~~ the city manager will
872 reverse the ~~city manager~~ public works director 's decision. The decision of the city ~~commission~~
873 manager shall constitute final administrative action.

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

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

879 **DIVISION 3. – COMMERCIAL RECYCLING**

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

881 (a) Commercial generators. ~~Beginning January 1, 1997, or such later date as designated by~~
882 ~~the city manager or designee, all~~ All commercial generators ~~and generators of construction and~~
883 ~~demolition debris~~ shall separate designated recycling materials and make them available for
884 recycling. ~~The commercial generator or generator of construction and demolition debris may~~
885 ~~utilize a registrant, which includes a commercial franchisee who has obtained a registration, to~~
886 ~~collect the recycled materials.~~ The commercial generator shall either self-transport the designated
887 recyclable materials or utilize a registrant to collect and transport the designated recyclable
888 materials to a recovered materials processing facility. Failure to separate the designated
889 recyclable materials, except for de minimus amounts as determined by the city manager or
890 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
891 or a solid waste container at point of generation will subject the commercial generator to civil

892 citation as provided in sections 2-336 through 2-339 of this Code and may, in addition, result in a
893 surcharge as provided in subsection (e) below.

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

898 (c) ~~{Separation and collection or special pick-up by city.}~~ If the city undertakes the
899 separation and collection of the designated recycled materials or otherwise performs a special
900 pick-up of garbage or trash because a commercial generator fails to separate the designated
901 recyclable materials, except for de minimus amounts as determined by the city manager or
902 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
903 or a solid waste container at point of generation, the city may have it removed and any expenses
904 incurred will be included as a surcharge in the utility bill of the commercial generator.

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

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

914 (f) Location of containers.

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

921 (2) Any commercial establishment providing receptacles for collecting and
922 disposing of garbage to the public shall provide an equal number of collection
923 receptacles for designated recyclable materials paired next to the garbage
924 receptacle. If the commercial establishment is unable to meet the above
925 requirement, the commercial establishment shall work with the city to develop an
926 acceptable alternative plan for the placement of collection receptacles for
927 designated recyclable materials on the premises.

928 (3) Property owners shall provide commercial establishment tenants with
929 space for commercial service containers for garbage and recycling collection or
930 make reasonable accommodations for shared commercial service containers for
931 garbage and recycling collection in a convenient and nearby location. If the
932 property owner is unable to meet the above requirement, the property owner shall
933 work with the city to develop an acceptable alternative plan for the collection of
934 waste from the tenant.

935 (gf) Maintenance of containers. If a registrant provides recovered material containers to
936 its customers, the registrant will be responsible for the proper maintenance of the container.
937 Customers that acquire their own containers from any other source are responsible for the proper

938 maintenance of the container, except that damage done by the registrant shall be the
939 responsibility of the registrant; and for ensuring that the container can be serviced by the
940 registrant's equipment. Any customer or registrant violating this paragraph shall be subject to a
941 civil citation as provided in chapter 2, article V, division 6.

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

946 (h) Requirement for a take back program for prescription drugs. All commercial
947 generators distributing or providing prescription medicines or drugs shall provide on-site
948 publicly accessible containers for the destruction of prescription medicines or drugs. Such
949 containers shall be located within 20 feet of the location where prescription drugs are dispensed.
950 If the commercial generator is unable to meet the above location requirement, the commercial
951 generator shall work with the city to develop an acceptable alternative plan for the placement of
952 containers on the premises.

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

- 957 (1) includes recycling of all designated recyclable materials;
958 (2) provides a location for recycling containers in a common area on the property
959 that is as convenient and accessible to the residents as garbage collection
960 containers. If the city manager or designee determines the location of

961 recycling containers fails to meet this requirement, the city manager shall
962 determine an appropriate location on the property for recycling containers;
963 (3) provides an adequate level of service and capacity of designated recyclable
964 collection containers based on the number of residents, units, or generation at
965 the property. If the city manager or designee determines the level of service
966 and capacity of recycling containers is inadequate, the city manager shall
967 determine an appropriate level of service and capacity of recycling containers;
968 (4) prominently posts and maintains one or more signs in common areas where
969 designated recyclable materials are collected that specify the materials
970 accepted for recycling;
971 (5) distributes recycling information in printed or electronic form to each occupant
972 or unit on the property a) upon commencement of the tenant's lease or unit
973 sale, b) at least once annually, and c) within fourteen (14) days after any
974 changes to food waste services on the property; and
975 (6) by October 1, 2022, provides at least one indoor recycling storage container
976 per unit of a type and design approved by the City for unit occupants to easily
977 transport designated recyclable materials to the collection area on the property.
978 (j) Commercially collected residential property lease transition plan.
979 (1) Beginning January 1, 2023, commercially collected residential properties with
980 at least 200 units that are located within the designated area shall submit to
981 the public works department a plan to divert from the landfill waste stream
982 usable and functioning household goods, furnishings, and electronics, and
983 recyclable cardboard resulting from the high volume move-in and move-out

984 periods that occur April 20 – May 15 and July 20 - August 25 of each year.
985 Beginning January 1, 2025, commercially collected residential properties
986 with at least 50 units that are located within the designated area shall submit
987 to the public works department a plan to divert from the landfill waste stream
988 usable and functioning household goods, furnishings, and electronics, and
989 recyclable cardboard resulting from the high volume move-in and move-out
990 periods that occur April 20 – May 15 and July 20 - August 25 of each year.
991 The designated area will be described in a map on file in the public works
992 department, and may be revised from time to time by the public works
993 director. The plan shall be submitted on a form prepared by the city.
994 (2) The city shall approve or disapprove the plan within 15 business days of the
995 plan being submitted and send written notice of the decision to the
996 commercially-collected residential property. If approved, the proposed plan
997 shall be implemented no later than 60 days after approval. If the plan is
998 disapproved, the commercially-collected residential property shall re-submit
999 the plan no later than 30 days after the date of its disapproval.
1000 (3) Failure to submit or follow the plan will result in a civil citation in accordance
1001 with division 6, article V, chapter 2. In addition, commercially-collected
1002 residential properties which are not in compliance with this subsection shall
1003 be subject to code enforcement proceedings and/or appropriate civil action in
1004 the court of competent jurisdiction for injunctive relief.
1005 (k) Exemptions. A commercial generator may request an exemption from the
1006 requirements within Section 27-85(e). The city manager or designee shall grant a request for an

1007 exemption if the commercial generator demonstrates to the satisfaction of the city manager or
1008 designee that the volume of designated recyclable materials generated is de minimus amounts
1009 or space is not available at a given property for additional container placement. Each
1010 exemption request must be completed and submitted using the standardized forms provided by
1011 the city. Commercial generators shall be notified in writing within sixty (60) days of whether
1012 their exemption request is granted or denied.

1013 **Sec. 27-86. - Registration of recovered materials collectors.**

1014 (a) *Registration required.* No person, including a commercial franchisee, shall collect,
1015 transport, convey or process recovered materials in the city without a registration certificate from
1016 the city. Each commercial franchise holder who desires to collect recovered materials as part of
1017 the commercial recycling program shall be granted a registration certificate upon ~~filling out~~
1018 completing an application and providing the necessary documentation. No application fee will be
1019 required until such time as the commercial franchise would have terminated had it not been
1020 extended by subsection 27-79.1. This subsection does not prohibit the city from entering into
1021 an exclusive franchise agreement or issuing exclusive certificates of registration for the
1022 collection of recovered materials from residential properties or commercially-collected
1023 residential properties.

1024 (b) *Application for a recovered material certificate.*

1025 (1) Applications for registration shall be obtained from and returned to the
1026 department of solid waste.

1027 (2) The applicant shall state whether it is a processor, a transporter, or both.

1028 (3) Requested information on the application shall be limited to that information
1029 required by F.S. § 403.7046.

1030 (4) The application must be accompanied by

1031 a. a copy of state certification as required by F.S. § 403.7046;

1032 b. disclosure of ownership as set forth below; and

1033 c. proof of insurance as set forth below.

1034 (c) *Renewal of registration.* The certificate of registration may be valid for five years,

1035 and may be renewed up to two times upon

1036 (1) disclosure of ownership as set forth below;

1037 (2) proof of insurance as set forth below as of the time of renewal; and

1038 (3) proof that the registrant is still providing service to customers.

1039 (d) *Operating requirements for registrants.* Persons collecting, transporting, conveying or

1040 processing recovered materials in the city shall comply with the following operating

1041 requirements:

1042 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a

1043 notarized statement disclosing the names of its owners, general and limited partners,

1044 or corporate or registered name under which it will conduct its business as

1045 authorized by this article.

1046 (2) *Response to complaint.* Each registrant shall be responsible for responding to

1047 any and all complaints which involve registrant's actions that create a nuisance or

1048 have the potential to create a nuisance. Response shall be within 24 hours of the

1049 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

1050 (3) *Clean-up.* A registrant shall handle recovered materials containers with

1051 reasonable care and return them to the approximate location from which they were

1052 collected. A registrant shall clean up all materials spilled during its collection
1053 operation.

1054 (4) *Emergencies.* A registrant shall not be required to provide collection services
1055 when all appropriate recycling sites are closed or a city emergency or imminent
1056 emergency exists, as determined by the city manager or designee. Collections shall
1057 resume on the instruction of the city manager or designee.

1058 (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be
1059 responsible for any losses or damages of any kind arising from its performance or
1060 nonperformance under its registration. The registrant shall defend at its own expense
1061 or reimburse the city for its defense, at the city's option, of any and all claims and
1062 suits brought against the city, its elected or appointed officers, employees, and
1063 agents resulting from the registrant's performance or nonperformance of service
1064 pursuant to the registration.

1065 (6) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or
1066 accidental release of recovered material during transport.

1067 (7) *Insurance.* A registrant shall purchase and maintain the types and amounts of
1068 insurance set forth below from companies authorized to do business in the State of
1069 Florida. The city shall be named as an additional insured on the general liability
1070 insurance if the registrant utilizes city facilities. Failure to maintain insurance shall
1071 result in revocation of registration.

1072 a. General liability insurance - \$500,000.00 per occurrence if the registrant
1073 utilizes city facilities.

1074 b. Commercial motor vehicle insurance as required by F.S. Ch. 627.

1075 c. Workers compensation as required by F.S. Ch. 440.

1076 (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense
1077 all local, state and federal franchises, certificates, permits or other authorizations
1078 necessary for the conduct of its operations. A registrant and its employees, officers
1079 and agents shall comply with all relevant local, state, and federal laws, rules and
1080 regulations, orders and mandatory guidelines applying to the collection or
1081 processing services being rendered.

1082 (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be
1083 deemed to be a waiver of any applicable local, state or federal law or regulation,
1084 including but not limited to zoning or planning regulations, with respect to a
1085 recycling operation of any kind, nor shall it create any vested right to own or
1086 operate any type of recycling operation.

1087 (10) *Hours of operation.* A registrant shall make available daily ~~(except Sunday)~~
1088 collection of designated recyclable materials. Collection shall begin no earlier than
1089 6:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday, except
1090 in areas of mixed residential and commercial occupancy where collections shall
1091 begin no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday
1092 through Saturday. Sunday service shall not begin before 8:00 am and cease no later
1093 than 9:00 p.m. ~~The city manager or designee may authorize collection on Sunday~~
1094 ~~where special needs of the customer make it necessary.~~

1095 (e) *Separation of residential and commercial materials.* Curbside collection of
1096 designated recyclable materials from commercial generators shall be allowed only with

1097 prior approval of the city manager or designee, when considering a request to provide
1098 curbside collection, the city manager or designee shall consider the following factors:

1099 (1) Accessibility of collection vehicles to property.

1100 (2) Available space for placement of containers.

1101 (3) Predominant use of property.

1102 (4) Safety.

1103 (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered
1104 materials dealer that has been certified by the Florida Department of Environmental
1105 Protection or subsequent responsible agency, and the city.

1106 (g) *Reports.*

1107 (1) The recovered materials registrants shall submit to the city manager or
1108 designee reports as authorized by F.S. § 403.7046, and the regulations promulgated
1109 pursuant to the authority stated in statute.

1110 (2) Within 15 days of changing facilities where recovered materials is being
1111 delivered, recovered materials registrants shall provide the name and location of the
1112 new facilities to the city manager or designee.

1113 **Sec. 27-87. - Revocation of registration.**

1114 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
1115 deny a registration in the case of application for a new or renewed registration, and suspend or
1116 revoke a registration for a specified period of time in the case of previously issued registration.

1117 Just cause shall be consistent and repeated violation of state or local laws, ordinances, rules, and
1118 regulations relating to the applicant's or registrant's operation; or loss of state certification as a
1119 recovered materials dealer.

1120 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
1121 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
1122 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
1123 why the registration should not be denied, revoked or suspended. The notice of ~~intention~~ the
1124 proposed action shall be served upon the applicant or registrant by registered mail or personal
1125 service. The hearing shall be held no earlier than 10 days after notice is received by the
1126 applicant or registrant. Notice of the final decision of the public works director or designee shall
1127 be sent in writing to the applicant or registrant.

1128 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the
1129 ~~city manager~~ public works director or designee may appeal the decision to the ~~city commission~~
1130 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city
1131 ~~clerk of the commission~~ within ten days after the decision of the ~~city manager~~ public works
1132 director or designee. The city clerk shall inform the ~~city manager~~ public works director of the
1133 appeal, and the ~~city manager~~ public works director or designee shall forthwith transmit to the city
1134 clerk copies of all papers constituting the record upon which the action appealed is based. ~~The~~
1135 ~~clerk shall place the appeal on the agenda of the next regularly scheduled city commission~~
1136 ~~meeting which is not less than ten days from the date of the filing of the appeal. No later than 15~~
1137 ~~days after the date of filing the appeal, the city commission manager shall review the record~~
1138 and decide whether the decision of the ~~city manager~~ public works director was based on
1139 competent, substantial evidence. ~~It [If]~~ If the commission city manager finds competent,
1140 substantial evidence for the ~~city manager~~ public works director 's decision, the city manager will
1141 uphold the ~~city manager~~ public works director's decision; otherwise, the city manager will

1142 reverse the ~~city manager~~ public works director 's decision. The decision of the city ~~commission~~
1143 manager shall constitute final administrative action.

1144 **Sec. 27-88. - Penalties for violation.**

1145 Except as otherwise provided, ~~any person violating or failing to comply with any of the~~
1146 ~~provisions~~ violations of this division ~~shall~~ may be ~~punished~~ enforced by civil citation if
1147 specifically provided for by section 2-339, as provided by section 1-9 of this Code of
1148 Ordinances, by code enforcement proceedings, or the city may seek injunctive relief.

1149 **Section 2.** A new Division 4 within Article III of Chapter 27 of the Gainesville Code of
1150 Ordinances is created to read as set forth below. Division 5 is amended to read as set forth
1151 below. Except as amended herein, the remainder of Chapter 27 remains in full force and effect.

1152 **DIVISION 4. RESERVED. SINGLE-USE PLASTIC AND POLYSTYRENE**

1153 **PRODUCTS.**

1154 **DIVISION 5. PLASTIC STRAWS AND STIRRERS RESERVED.**

1155 **Sec. 27-~~9289~~. - Definitions.**

1156 The following words, terms and phrases, when used in this article, shall have the meanings
1157 ascribed to them in this section, except where the context clearly indicates a different meaning:

1158 Expanded polystyrene container means any plate, bowl, cup, container, lid, tray, cooler,
1159 ice chest, and similar items that are made of blown polystyrene and expanded and extruded
1160 foams that are thermoplastic petrochemical materials utilizing a styrene monomer and
1161 manufactured by fusion of polymer spheres (expandable bead foam), injection molding, foam
1162 molding and extrusion-blown molding (extruded foam polystyrene) or any other technique.

1163 Beverage Prepared food provider means a person or entity that provides food (including
1164 beverages) directly to the consumer, that is ready for immediate consumption without any further

1165 cooking, mixing, preparation, alteration or repackaging regardless of whether such food beverage
1166 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether
1167 the food beverage is provided from a building, pushcart, stand or vehicle. Prepared Food
1168 Beverage providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,
1169 delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,
1170 bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

1171 Single-use plastic food accessory means any item which is made predominantly of plastic
1172 derived from petroleum polymer or a biologically-based polymer and is provided for one-time
1173 use with prepared food (including beverages), such as utensils, chopsticks, portion cups,
1174 condiment packets, and other similar accessories. This definition excludes items that are
1175 provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and
1176 cup trays.

1177 Single-use plastic straw means a disposable tube used for the purpose of consuming
1178 beverages and intended for one-time use, which is made predominantly of plastic derived from
1179 petroleum polymer or a biologically-based polymer.

1180 Single-use plastic stirrer means a device that is used to mix beverages and intended for
1181 one-time use, and made predominantly of plastic derived from a petroleum polymer or a
1182 biologically based polymer.

1183 **Sec. 27-~~9390~~. - Prohibition on single-use plastic straws and single-use plastic stirrers.**

1184 (a) ~~Beverage~~ Prepared food providers shall not sell, use, offer for sale or use, or provide
1185 to any person a single-use plastic straw or single-use plastic stirrer.

- 1186 (1) Exceptions: Although the discontinuation of the use of single-use plastic straws
1187 and single-use plastic stirrers is strongly encouraged, this article shall not apply to
1188 the sale or use of single-use plastic straws or single-use plastic stirrers as follows:
- 1189 a. Pre-packaged beverages with a single-use plastic straw or single-use plastic
1190 stirrer that are prepared and packaged outside the city and are not altered,
1191 packaged or repackaged within the city.
 - 1192 b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers
1193 that are offered for retail sale to a consumer for personal use, that are prepared
1194 and packaged outside the city and are not altered, packaged or repackaged
1195 within the city.
 - 1196 c. By medical or dental facilities.
 - 1197 d. By hospitals.
 - 1198 e. By nursing homes or assisted living facilities.
 - 1199 f. By any disabled person that requires or relies on same to consume beverages
1200 and/or food supplements.

1201 **Sec. 27-91. – Single-Use Plastic Food Accessories available upon request.**

1202 Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out
1203 or delivery, unless the single-use food accessory is specifically requested by the customer or is
1204 provided at a customer self-serve station.

1205 **Sec. 27-92. - Prohibition on use of expanded polystyrene containers on city property or city**
1206 **right-of-way.**

1207 Any person or entity that is required to obtain a permit, use agreement, or other authorization or
1208 approval to use city property or city right-of-way pursuant to Chapter 18, Article II. Park

1209 Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and Chapter 30, Article V. Use
1210 Standards, is prohibited from using expanded polystyrene containers for the permitted activity on
1211 city property or city right-of-way. This prohibition excludes the distribution of any prepackaged
1212 food that is filled and sealed in an expanded polystyrene container prior to receipt by the person
1213 or entity and it excludes raw meat or seafood that is stored in an expanded polystyrene container
1214 and sold from a refrigerated display or storage case.

1215 **Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and**
1216 **balloons.**

1217 All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or
1218 balloons. Consistent with Section 379.233, Florida Statutes, the following balloon releases are
1219 exempt from the above prohibition: (a) balloons released by a person on behalf of a
1220 governmental agency or pursuant to a governmental contract for scientific or meteorological
1221 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either
1222 biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation
1223 Commission, and which are closed by a hand-tied knot in the stem of the balloon without string,
1224 ribbon, or other attachments. The party responsible for the release shall make available evidence
1225 of the biodegradability or photodegradability of said balloons in the form of a certificate
1226 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a
1227 violation of this act.

1228 **Sec. 27-94. - Enforcement; penalties; injunctive relief.**

1229 The city may enforce this ~~article~~ division by civil citation in accordance with chapter 2, article V,
1230 division 6. In addition, persons who are not in conformity with these requirements shall be
1231 subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

1232 **Section 3.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
 1233 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
 1234 and effect.

1235 **Sec. 2-339. – Applicable codes and ordinances.**

1236 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

1237
 1238 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1, 2,
 1239 and 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
 1240 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
 1241 renumbered or relettered in order to accomplish such intentions.

1242 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
 1243 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
 1244 finding shall not affect the other provisions or application of the ordinance which can be given
 1245 effect without the invalid or unconstitutional provisions or application, and to this end the
 1246 provisions of this ordinance are declared severable.

1247 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
 1248 such conflict hereby repealed.

