



28           **WHEREAS**, as an environmental leader among local governments in the State of  
29 Florida, the goal of the City is to replace expanded polystyrene and single-use carry out plastic  
30 bags with reusable, recyclable, or compostable alternatives whenever possible; and

31           **WHEREAS**, retail establishments such as ALDI, Trader Joes, and Lucky’s have  
32 successfully incorporated programs that encourage the use of reusable and/or recyclable  
33 alternatives to single use carry-out plastic bags; and

34           **WHEREAS**, this Ordinance provides for an implementation period (during which this  
35 ordinance will not be enforced) allowing retail establishments to expend their current stock of  
36 expanded polystyrene containers and single-use carry out plastic bags and transition to reusable,  
37 recyclable, or compostable alternatives; and

38           **WHEREAS**, the City Commission finds that this Ordinance is necessary for the  
39 preservation of our environment and the public health, safety and welfare of City residents and  
40 visitors and future generations; and

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

44           **WHEREAS**, the Public Hearings were held pursuant to the published notice described at  
45 which hearings the parties in interest and all others had an opportunity to be and were, in fact  
46 heard.

47           **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE**  
48 **CITY OF GAINESVILLE, FLORIDA:**

49           **Section 1.** A new Division 4 within Article III of Chapter 27 is created to read as set  
50 forth below. Except as amended herein, the remainder of Chapter 27 remains in full force and  
51 effect.

52   **CHAPTER 27 - UTILITIES**

53   **ARTICLE III – SOLID WASTE DISPOSAL**

54

55   **DIVISION 4 – EXPANDED POLYSTYRENE CONTAINERS AND SINGLE-USE**  
56   **CARRY OUT PLASTIC BAGS**

57

58   **Sec. 27-89 – Definitions.**

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

61           *Food service provider* means a person or entity that provides food directly to the  
62 consumer, regardless of whether such food is provided free of charge or sold, or whether  
63 consumption occurs on or off premises, or whether the food is provided from a building,  
64 pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants,  
65 cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug  
66 stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

67           *Retail establishment* means any person or entity engaged in the retail sale of goods.  
68 Retail establishment includes any supermarket, grocery store, convenience store, shop, service  
69 station, restaurant, farmers' market vendor, and any other sales outlet where a customer can  
70 directly purchase goods, materials, and products.

71           *Expanded polystyrene containers* means plates, bowls, cups, containers, lids, trays,  
72 coolers, ice chests, food containers and all similar articles that consist of blown polystyrene  
73 and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a  
74 styrene monomer and processed by any number of techniques including but not limited to

75 fusion of polymer spheres (expandable bead foam), injection molding, foam molding and  
76 extrusion-blown molding (extruded foam polystyrene).

77 Single-use carry out plastic bag means a bag provided to a customer, typically at the  
78 point of sale or distribution, for the purpose of transporting items, which is made predominantly  
79 of plastic derived from petroleum or a biologically-based source.

80 Special event permittee means any entity or person, and their subcontractors, agents or  
81 affiliates, who has been issued a special event permit by the City for a special event on City  
82 property, in a City facility or in the City's right-of-way, for the promotion or sale of their  
83 products and/or business.

84 **Sec. 27-90. Prohibition on use of expanded polystyrene and single-use carry out plastic**  
85 **bags.**

86 (a) Food service providers and retail establishments shall not sell, use, offer for sale or  
87 use, or provide food or beverage in expanded polystyrene containers, or provide to any person  
88 a single-use carry out plastic bag.

89 (1) Exceptions: Although the discontinuation of the use of expanded polystyrene  
90 containers and single-use carry out plastic bags is strongly encouraged, this article shall not  
91 apply to:

92 a. Expanded polystyrene containers used for prepackaged food that have been filled  
93 and sealed prior to receipt by the food service provider or retail establishment;

94 b. Expanded polystyrene containers used to store raw meat or seafood sold from a  
95 butcher case or similar refrigerated display or storage case;

96 c. Compostable bags that (i) conform to the current ASTM D6400; (ii) are certified and  
97 labeled as meeting the ASTM D6400 standard specification by a recognized verification

98 entity; and (iii) are capable of undergoing biological decomposition in a compost site  
99 such that the material breaks down into carbon dioxide, water, inorganic compounds and  
100 biomass at a rate consistent with known compostable materials;

101 d. Reusable bags, meaning bags with handles that are specifically designed and  
102 manufactured for multiple reuse and made of durable material specifically designed for  
103 and provided to consumers with the intention of multiple, long-term use; or

104 e. Any bags without handles provided to a customer (i) to protect food or merchandise  
105 from being damaged or contaminated by other food or merchandise, when items are  
106 placed together in a reusable bag or recyclable bag, including produce bags; (ii) to hold  
107 prescription medications dispensed from a pharmacy or veterinary office; (iii) that is  
108 designed to be placed over articles of clothing on a hanger, including dry cleaning bags;

109 (b) Special event permittees, or any vendor operating under that permittee, shall not sell,  
110 use, provide food or drink in, or offer the use of, expanded polystyrene containers or single-use  
111 carry out plastic bags in city facilities. Upon warning, the special event permittee or any  
112 vendor operating under that permittee must stop use of the expanded polystyrene containers or  
113 single-use carry out plastic bags, as applicable. If the special event permittee or any vendor  
114 operating under that permittee does not do so within a reasonable amount of time, same shall  
115 constitute a city code violation and may result in the revocation of the special event permit and  
116 fin.

117 **Sec. 27-91. -- Financial hardship waiver**

118 (a) Any food service provider or retail establishment that reported an annual gross  
119 income/revenue under \$500,000 per location on its income tax filing for the most recent tax  
120 year, and that is not a chain store (three or more stores located within the city that conduct

121 ~~business under the same business name, or operate under common ownership or management or~~  
122 ~~pursuant to a franchise agreement with the same franchisor), may request from the city~~  
123 ~~manager or designee a financial hardship waiver from compliance with the requirements of~~  
124 ~~this Division. The city manager or designee may grant a waiver if the food service provider~~  
125 ~~or retail establishment provides reasonable evidence of the following:~~

126 ~~(1) there is no comparable alternative product not composed of expanded polystyrene or a~~  
127 ~~single-use carry out plastic bag that would cost the same as or less than the expanded~~  
128 ~~polystyrene container or single-use carry out plastic bag, and~~

129 ~~(2) the purchase or use of an alternative product would create an undue financial~~  
130 ~~hardship.~~

131 ~~(b) If granted, a financial hardship waiver shall be valid for twelve (12) months and may~~  
132 ~~be renewed upon submittal of a new request for financial hardship waiver.~~

133 **Sec. 27-91. - Enforcement; penalties; injunctive relief.**

134 The city may enforce this article by civil citation in accordance with Chapter 2, Division  
135 6. In addition, persons who are not in conformity with these requirements shall be subject to  
136 appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

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138 **Section 2.** Section 2-339 of the Gainesville Code of Ordinances is hereby amended as set  
139 forth below. Except as amended herein, the remainder of Section 2-339 remains in full force and  
140 effect.

141 **Sec. 2-339. - Applicable codes and ordinances.**

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

27-90	Expanded polystyrene containers and single-use carry out plastic bags	II	\$250.00
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**Section 3.** It is the intention of the City Commission that the provisions of Sections 1 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

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

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

**Section 6.** This ordinance shall become effective immediately upon adoption; however, to allow time for retail establishments to expend their current stock of expanded polystyrene containers and single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives, the City will not commence enforcement of this ordinance until 8:00 a.m. on ~~\_\_\_\_\_~~ 8/1/2019.

**PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

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

169 ATTEST:

Approved as to form and legality

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174 \_\_\_\_\_  
OMICHELE D. GAINEY  
175 CLERK OF THE COMMISSION

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

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178 This ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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180 This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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