

ORDINANCE NO.

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

WHEREAS, .

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

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

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

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

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

CHAPTER 27 - UTILITIES

ARTICLE III – SOLID WASTE DISPOSAL

DIVISION 1. - GENERALLY

Sec. 27-71. - Purpose.

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

32 Sec. 27-72. - Definitions.

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

34 Applicant shall mean

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

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

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

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

48 *Certified recovered materials dealer* shall mean a dealer certified as provided in F.S. §  
49 403.7046.

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

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

- 53 (a) commercial service;
- 54 (b) collection of construction and demolition debris.

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

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

- 60 (1) a licensed mobile home park exceeding four dwelling units;
- 61 (2) multi-family residences exceeding four dwelling units under one common roof;
- 62 (3) any residential property that has opted-out of residential service under the terms of  
63 this article and is eligible to receive commercially collected residential service;
- 64 (4) business, commercial or industrial enterprises of all types licensed to do business in  
65 the city.

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

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

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

74            *Construction and demolition debris* shall mean materials generally considered to be not  
75 water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete,  
76 asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or  
77 destruction of a structure as part of a construction or demolition project, and including rocks,  
78 soils, tree remains, trees, and other vegetative matter that normally results from land clearing or  
79 land development operations for a construction project, including such debris from construction  
80 of structures at a site remote from the construction or demolition project site. Mixing of  
81 construction and demolition debris with other types of solid waste, including material from a  
82 construction or demolition site which is not from the actual construction or destruction of a  
83 structure will cause it to be classified as other than construction and demolition debris.

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

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

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

97 specific location and thereby agreeing to pay for all usage of such services occurring at the  
98 location.

99 *De minimus* quantity shall mean

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

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

105 *Designated recyclable materials* shall mean those recyclable materials that are designated  
106 ~~in writing~~ by the city manager or designee as potential recovered materials. The city manager or  
107 designee will be responsible for posting the current list of designated recycling materials on the  
108 official city website.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

161            *Trash* shall mean ~~accumulations of paper, magazines, packaging, containers, sweepings~~  
162 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~  
163 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~

164 ~~offices and other business places~~ nonputrescible debris that is generated by households,  
165 businesses, and institutions.

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

168 Sec. 27-73. - Prohibited acts.

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

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

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

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

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

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

179 (a) Commercial generators transporting their own debris;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

293 a. A serial or property control number;

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

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

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

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

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

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

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

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

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

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

337 (9) As of October 1, 2022, every solid waste commercial service container, except for  
338 construction and demolition debris collection containers, shall follow the City’s approved color  
339 and educational labeling format as follows:

- 340 a. The color of the body of commercial dumpsters or the color of the body and lid of  
341 commercial carts shall be:
  - 342 i. Gray in color for collection containers for the disposal of garbage;

343                   ii.     Pepsi Blue in color, or a close approximation to Pantone color PMS 287  
344 C, for collection containers for the recycling of bottles, cans, and recyclable container-type  
345 materials;

346                   iii.     Burnt Orange in color, or a close approximation to Pantone color PMS  
347 485C, for collection containers for the recycling of corrugated cardboard only or mixed paper  
348 materials, with an exception for blue carts with orange lids, as approved by the City;

349                   iv.     Kelly Green in color, or a close approximation to Pantone color PMS  
350 7728C, for collection containers for recycling and or composting food waste or organic  
351 materials.

352           b.     Recycling and organic material container educational labeling shall be:

353                   i.     Clearly and conspicuously placed on the front loading side of dumpsters  
354 or on top of cart lids;

355                   ii.     At least twenty-five (25) percent of the area of the front loading side of  
356 dumpsters or cart lids;

357                   iii.     In large text for the type of material collected in that container, such as  
358 “RECYCLING ONLY”, “CARDBOARD ONLY”, and or “FOOD WASTE ONLY”;

359                   iv.     Clearly identify and describe the materials accepted in that container in a  
360 graphic representation using a combination of text and images; and

361                   v.     Printed in both English and Spanish text.

362           c.     Labeling graphics and suggested text will be supplied by the City at no cost to  
363 commercial service providers operating within the City. The City Manager or designee may  
364 waive these requirements if it is determined in the best interest of the intent of this ordinance.

365     Sec. 27-76. - Residential service.

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

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

369 (1) *Garbage and household trash:*

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

375 b. All garbage and household trash shall be drained of free liquids and stored for  
376 collection in the assigned cart, or in pre-paid garbage disposal bags, as accumulated. The cart  
377 shall not be filled above a height allowing the attached lid to be completely closed, nor shall the  
378 bags be filled such that they cannot be securely fastened shut or weigh over 40 pounds. The bags  
379 may be placed inside non-disposable containers. The assigned cart and the pre-paid garbage  
380 disposal bags shall be placed at the curb or roadside no earlier than 5:00 p.m. on the day  
381 preceding the scheduled collection day, and the emptied carts and non-disposable containers  
382 shall be removed from the curbside location not later than 9:00 p.m. of the day of collection. The  
383 carts and non-disposable containers shall be removed and kept, except during the hours permitted  
384 by this section for the placement of them for collection, at a location where they are not clearly  
385 visible from any public street. It shall be unlawful and punishable as provided for any owner or  
386 occupant to place, permit the placing of or allow the continued location of garbage and  
387 household trash containers in any location or at any times not provided for in this subsection.  
388 Garbage and household trash placed in containers other than the assigned cart or pre-paid

389 approved garbage disposal bags will not be collected. Non\_disposable or reusable containers  
390 intended not to be picked up by the collectors shall be clearly and appropriately identified.  
391 Anyone placing garbage or household trash in containers other than the assigned cart or pre-paid  
392 garbage disposal bags will be in violation of this article.

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

404 (2) *Yard trash.* Yard trash that is properly bundled or containerized in such manner to enable  
405 one person to lift the trash in a single lifting movement to place same in the compaction truck,  
406 and which bundles or containers do not exceed 40 pounds in weight and five feet in length, will  
407 be collected at curb or roadside. If tree or shrubbery trimmings are not containerized they may be  
408 placed at curbside in a compact pile not containing any items exceeding 40 pounds in weight and  
409 five feet in length and will be picked up. Grass, leaves and pine straw must be containerized by  
410 either using disposable or reusable containers, and will be collected if properly placed for  
411 collection at curb or roadside. Non\_disposable or reusable containers intended not to be picked

412 up by the collectors shall be clearly and appropriately identified. Concrete, dirt, bricks,  
413 appliances, furniture or similar items are not considered yard trash, and will not be collected  
414 except by special service as described in section 27-77.

415 (3) *Bin provided.* Each dwelling unit shall be provided a bin for the purpose of storage and  
416 disposal of recyclable materials. Recyclable materials that meet the requirements set forth by the  
417 city manager or designee shall be collected from curb or roadside. Recyclable materials not  
418 fitting in the bin may be placed in non-disposable containers or paper bags and will be collected  
419 at curb or roadside.

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

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

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

441 (f) *Residential service exclusion*.

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

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

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

448 a. Applicant's name.

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

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

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

456 a. Collection history (whether commercial or residential)

457 b. Accessibility of collection vehicles to property.

458 c. Available space for placement of carts.

459 d. Predominant use of property.

460 e. Safety.

461 f. Level of service requested by residents.

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

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

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

469 Sec. 27-77. - Special service.

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

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

478 Sec. 27-78. - Reserved.

479 DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION

480 DEBRIS FRANCHISE

481 Sec. 27-79. - General provisions.

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

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

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

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

497 (e) Collection times shall be as follows:

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

504 (2) Notwithstanding paragraph (e)(1), the city manager or designee may set other hours for  
505 the purpose of improving collection operations or safety, by the city first holding a neighborhood  
506 workshop to inform various residents, businesses and other stakeholders of the change being  
507 considered, and to solicit their input. The workshop will be held in a location generally near the  
508 subject area in a facility that is ADA compliant. The city will provide notification by mail to all  
509 owners of property and neighborhood associations within the area being considered as well as  
510 those within 400 feet of the perimeter of that area. The notices will be mailed at least 14 days  
511 before the workshop and the city will also advertise the workshop in a newspaper of general  
512 circulation at least 14 days before the date of the workshop. The workshop must start between  
513 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m. and 5:00 p.m. on a weekend. The  
514 city shall prepare a written summary of the neighborhood meeting that includes a list of those in  
515 attendance, a summary of the issues discussed, and comments, concerns and suggestions by  
516 those in attendance. Any change in collection times shall be established in a written  
517 memorandum outlining the justification. All memoranda establishing collection times, and  
518 summaries of the neighborhood meetings, shall be retained on file by the solid waste division  
519 and made available to the public for inspection. These collection times should be reviewed  
520 periodically to determine whether the operational justification continues to exist.

521 ~~(3) Notwithstanding paragraph (e)(1), the city manager or designee may authorize collection~~  
522 ~~on Sunday where special needs of the customer make it necessary.~~ In the event of an emergency,  
523 a franchisee may collect at times not allowed by this section, provided the city manager grants  
524 prior approval, to be later evidenced by a written memorandum. If no written memorandum is  
525 obtained, there shall be a presumption that the franchisee had not obtained prior approval. All

526 written memoranda issued shall be retained on file by the solid waste division and made  
527 available to the public for inspection.

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

530 (g) The franchise granted hereunder ~~shall~~ may or may not be exclusive. The city reserves  
531 the right to grant similar rights or franchises to more than one person or corporation as well as  
532 the right in its own name to use its streets for purposes similar to or different from those allowed  
533 to franchisees hereunder.

534 ~~(h) For all contracts between customers and commercial franchisees as of January 1,~~  
535 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~  
536 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~  
537 ~~recycling program.~~

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

542 (j) The franchisee shall submit to any load inspection program that the city may  
543 reasonably devise.

544 (k) Yard waste from a commercial generator or customer shall be collected separately  
545 from other solid waste. Each commercial franchisee shall inform all of its commercial customers  
546 of this requirement.

547 (l) A commercial franchisee shall respond to and, if feasible, resolve all complaints  
548 received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to

549 and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00  
550 noon the next day. An emergency telephone number where the commercial franchisee can be  
551 reached shall be given to the city manager or designee.

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

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

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

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

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

571 (¶g) In order to ensure that the franchisee provides a quality level of solid waste and  
572 recycling collection services, the following standards and fines are set.

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

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

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

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

- 590 a. Failure to provide clean, safe, sanitary equipment.
- 591 b. Failure to maintain required office hours.
- 592 c. Failure to maintain proper licenses.
- 593 d. Failure to display franchisee name and phone number on equipment or containers.

594 e. Failure to collect solid waste upon notification by city. Franchisee will also be charged  
595 the cost incurred by the city if city personnel are required to collect the solid waste due to such  
596 failure.

597 f. Using improper truck to service commercial or commercially collected residential  
598 customer solid waste.

599 g. Failure to provide monthly recycling reports by the 30th day after each month in the  
600 format specified by the city.

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

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

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

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

608 Sec. 27-80. - Franchise fees.

609 (a) *Amount of fee.*

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

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

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

625 (b) Compensation payments for commercial service shall be due 20 days after the end of  
626 each month, accompanied by statements of gross revenues as prescribed by the city's finance  
627 department, and shall be paid directly to the city's finance department. Statements and  
628 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if  
629 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances  
630 shall be accepted as timely if postmarked on the next succeeding workday. Compensation  
631 payments for construction and demolition debris collection service shall be due on October 15 of  
632 each year, and will be accepted as timely if postmarked on or before October 15, or the next  
633 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.  
634 Payments not received by the due date shall be assessed interest at the rate of one percent per  
635 month compounded monthly from the due date.

636 (c) All amounts paid shall be subject to confirmation and recomputation by the city. An  
637 acceptance of payment shall not be construed as an accord that the amount paid is, in fact, the

638 correct amount, nor shall acceptance of payment be construed as a release of any claim the city  
639 may have for further or additional sums payable.

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

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

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

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

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

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

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

668 Sec. 27-82. - Application requirements.

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

672 (1) Commercial limited to collection of garbage and trash from commercially-collected  
673 residential dwellings and collection or processing of garbage and trash from commercial  
674 generators.

675 (2) Construction and demolition limited to collection and disposal of construction and  
676 demolition debris.

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

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

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

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

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

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

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

707 occurrence for property damage regarding comprehensive general liability. The applicant shall  
708 carry in its own name a policy covering its operation in an amount not less than \$100,000.00 per  
709 person, \$200,000.00 per occurrence for bodily injury, and \$50,000.00 per occurrence for  
710 property damage liability regarding automobile liability insurance.

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

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

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

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

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

728 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the  
729 city manager or designee may appeal the decision to the city commission. The appeal shall be

730 taken by filing written notice thereof, in duplicate, with the clerk of the commission within ten  
731 days after the decision of the city manager or designee. The clerk of the commission shall notify  
732 the city manager of the appeal and the city manager or designee shall forthwith transmit to the  
733 clerk copies of all papers constituting the record upon which the action appealed is based. The  
734 clerk of the commission shall place the appeal on the agenda of the next regularly scheduled city  
735 commission meeting which is not less than ten days from the date of the filing of the appeal. The  
736 city commission shall review the record and decide whether the decision of the city manager was  
737 based on competent, substantial evidence. ~~If~~ If  
738 the commission finds competent, substantial evidence for the city manager's decision, it  
739 will uphold the manager's decision; otherwise, it will reverse the manager's decision. The  
740 decision of the city commission shall constitute final administrative action.

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

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

744 DIVISION 3. – COMMERCIAL AND MULTIFAMILY RECYCLING

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

746 (a) Commercial generators. ~~Beginning January 1, 1997, or such later date as designated by~~  
747 ~~the city manager or designee, all~~ All commercial generators ~~and generators of construction and~~  
748 ~~demolition debris~~ shall separate designated recycling materials and make them available for  
749 recycling. The commercial generator ~~or generator of construction and demolition debris~~ may  
750 utilize a registrant, which includes a commercial franchisee who has obtained a registration, to  
751 collect the recycled materials. Failure to separate the designated recyclable materials, except for  
752 de minimus amounts as determined by the city manager or designee, from solid waste loads

753 delivered to a city facility, a facility under contract with the city or a solid waste container at  
754 point of generation will subject the commercial generator to civil citation as provided in  
755 sections 2-336 through 2-339 of this Code and may, in addition, result in a surcharge as provided  
756 in subsection (ee) below.

757 (b) Beginning January 1, 2022 or such a later date as designated by the city manager or  
758 designee all commercial generators that regularly generate more than one cubic yard of food  
759 waste per week shall divert them from the waste stream. The City Manager may implement this  
760 section incrementally if the infrastructure does not exist to fully accommodate the city's  
761 production. All restaurants, food processors, and grocery stores shall be assumed to be required  
762 to meet this requirement unless capable of documenting otherwise. Affected businesses are  
763 encouraged to implement the following hierarchy when diverting food waste:

- 764 (1) feeding hungry people;  
765 (2) feeding animals;  
766 (3) providing for industrial uses; and  
767 (4) composting.

768 (c) Beginning January 1, 2024, all commercial generators shall be required to meet the  
769 requirement in Sec. 27-85 (b) unless capable of documenting otherwise.

770 (d) Special Event Recycling.

771 (1) For community special events requiring an event permit from the City of Gainesville,  
772 the special event permittee shall provide recycling and food waste receptacles  
773 throughout the event venue.

774 (2) The number of recycling and food waste receptacles shall be equal to the number of  
775 garbage receptacles.

776 (3) Garbage, food waste, and recycling receptacles shall be placed next to each other  
777 throughout the event venue.

778 (4) The minimum of recyclable items that shall be collected in event recycling  
779 receptacles shall be plastic beverage bottles, aluminum cans and bottles, and glass  
780 bottles.

781 (5) The special event permittee shall provide recycling containers for corrugated  
782 cardboard that is generated at the event by the special event permittee or vendors at  
783 the special event. The special event permittee shall inform vendors at each event of  
784 the requirement for the recycling of corrugated cardboard.

785 (6) If the City's Solid Waste Division determines that food waste collection is  
786 appropriate for the event, the special events permittee shall abide by the requirements  
787 for commercial food waste processing as prescribed in this chapter.

788 (7) Each receptacle shall be clearly identified for the products to be placed in each  
789 receptacle.

790 (8) All food waste receptacles using bags for collection shall use compostable bags as  
791 certified by the Biodegradable Products Institute.

792 (be) [Notice of noncompliant status.] Before a civil citation is issued, or a surcharge can  
793 be imposed, the commercial generator must be issued a notice advising of its noncompliant  
794 status. The notice shall provide a compliance date. If upon subsequent inspection the commercial  
795 generator is still not in compliance a civil citation will be issued.

796 (ef) [Separation and collection or special pick-up by city.] If the city undertakes the  
797 separation and collection of the recycled materials or otherwise performs a special pick-up of  
798 garbage or trash because a commercial generator fails to separate the designated recyclable

799 materials, except for de minimus amounts as determined by the city manager or designee, from  
800 solid waste loads delivered to a city facility, a facility under contract with the city or a solid  
801 waste container at point of generation, the city may have it removed and any expenses incurred  
802 will be included as a surcharge in the utility bill of the commercial generator.

803 (dg) Appeal. A commercial establishment may appeal the imposition of a surcharge to the  
804 city manager or designee within 15 calendar days of such imposition. The notice of appeal shall  
805 include all information and grounds the commercial generator wants to be considered by the city  
806 manager or designee as to why the surcharge should not be imposed. The manager or designee  
807 shall have 15 calendar days to affirm or abate the surcharge. The determination of the manager  
808 or designee shall be final.

809 (eh) ~~Commercially collected residential~~ Multifamily residential service. All  
810 ~~commercially collected multifamily residential serviced~~ units shall establish a recycling program  
811 that: ~~includes recycling of all designated recyclable materials and is convenient and accessible to~~  
812 ~~the residents by January 1, 1997.~~

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

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

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

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

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

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

829 (7) As of October 1, 2022, property owners of multifamily residents of five or  
830 more units are to provide at least one indoor recycling storage container per  
831 unit of a type and design approved by the City for tenants to easily transport  
832 recyclables to a central collection area on the property:

833 (8) At such time as when organic collection services are made available at  
834 property, property owners of multifamily residents of five or more units are to  
835 provide at least one indoor organics storage container per unit of a type and  
836 design approved by the City for tenants to easily transport organic material to  
837 a central collection area on the property:

838 (fi) Location of containers. All recovered materials shall be placed in an appropriate  
839 industry standard container. Where garbage ~~eans~~ carts are used, they shall be placed at the  
840 roadside or at such other single collection point as may be agreed to between the registrant and  
841 the customer. All containers shall be kept in a safe, accessible location as designated or approved  
842 by the city and agreed to by the registrant and customer.

843 (gj) Maintenance of containers. If a registrant provides recovered material containers to  
844 its customers, the registrant will be responsible for the proper maintenance of the container.

845 Customers that acquire their own containers from any other source are responsible for the proper  
846 maintenance of the container, except that damage done by the registrant shall be the  
847 responsibility of the registrant; and for ensuring that the container can be serviced by the  
848 registrant's equipment.

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

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

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

863 (a) *Registration required.* ~~On and after October 1, 1996,~~ no person, including a  
864 commercial franchisee, shall collect, transport, convey or process recovered materials in the city  
865 without a registration certificate from the city. Each commercial franchise holder ~~as of October~~  
866 ~~1, 1996,~~ who desires to collect recovered materials as part of the commercial recycling program  
867 shall be granted a registration certificate upon filling out an application and providing the

868 necessary documentation. No application fee will be required until such time as the commercial  
869 franchise would have terminated had it not been extended by subsection 27-79.1.

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

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

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

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

876 (4) The application must be accompanied by  
877 a. a copy of state certification as required by F.S. § 403.7046;  
878 b. disclosure of ownership as set forth below; and  
879 c. proof of insurance as set forth below.

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

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

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

884 a. Provide a list of facilities that material will be delivered and shall be updated within

885 fifteen (15) days of using a new facility

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

887 c. proof of insurance as set forth below.

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

889 and may be renewed up to two times upon

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

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

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

893 ~~(d)~~ *Operating requirements for registrants.* Persons collecting, transporting, conveying  
894 or processing recovered materials in the city shall comply with the following operating  
895 requirements:

896 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a notarized  
897 statement disclosing the names of its owners, general and limited partners, or corporate or  
898 registered name under which it will conduct its business as authorized by this article.

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

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

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

910 (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be  
911 responsible for any losses or damages of any kind arising from its performance or  
912 nonperformance under its registration. The registrant shall defend at its own expense or  
913 reimburse the city for its defense, at the city's option, of any and all claims and suits brought

914 against the city, its elected or appointed officers, employees, and agents resulting from the  
915 registrant's performance or nonperformance of service pursuant to the registration.

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

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

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

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

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

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

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

935 (10) *Hours of operation.* A registrant shall make available daily (except Sunday) collection of  
936 designated recyclable materials and food waste. Collection shall begin no earlier than 6:00 a.m.

937 and shall cease no later than 9:00 p.m. Monday through Saturday, except in areas of mixed  
938 residential and commercial occupancy where collections shall begin no earlier than 7:00 a.m. and  
939 shall cease no later than 9:00 p.m. Monday through Saturday. The city manager or designee may  
940 authorize collection on Sunday where special needs of the customer make it necessary.

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

- 945 (1) Accessibility of collection vehicles to property.
- 946 (2) Available space for placement of containers.
- 947 (3) Predominant use of property.
- 948 (4) Safety.

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

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

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

956 (a) Upon a finding of just cause, the city manager or designee shall deny a registration in  
957 the case of application for new or renewed registration, and suspend or revoke a registration for a  
958 specified period of time in the case of previously issued registration. Just cause shall be  
959 consistent and repeated violation of state or local laws, ordinances, rules, and regulations relating

960 to the applicant's or registrant's operation; or loss of state certification as a recovered materials  
961 dealer.

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

967 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the  
968 city manager or designee may appeal the decision to the city commission. The appeal shall be  
969 taken by filing written notice thereof, in duplicate, with the clerk of the commission within ten  
970 days after the decision of the city manager or designee. The clerk shall inform the city manager  
971 of the appeal, and the city manager or designee shall forthwith transmit to the clerk copies of all  
972 papers constituting the record upon which the action appealed is based. The clerk of the  
973 commission shall place the appeal on the agenda of the next regularly scheduled city commission  
974 meeting which is not less than ten days from the date of the filing of the appeal. The city  
975 commission shall review the record and decide whether the decision of the city manager was  
976 based on competent, substantial evidence. It [If] the commission finds competent, substantial  
977 evidence for the city manager's decision, it will uphold the manager's decision; otherwise, it will  
978 reverse the manager's decision. The decision of the city commission shall constitute final  
979 administrative action.

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

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

984 ~~**DIVISION 5. - PLASTIC STRAWS AND STIRRERS**~~

985 **DIVISION 4. UNIVERSAL ZERO WASTE POLICIES**

986 **DIVISION 4. SINGLE-USE PLASTIC AND POLYSTYRENE PRODUCTS**

987 **Sec. 27-9289. - Definitions.**

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

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

995 Beverage Prepared food provider means a person or entity that provides food (including  
996 beverages) directly to the consumer, that is ready for immediate consumption without any further  
997 cooking, mixing, preparation, alteration or repackaging regardless of whether such food beverage  
998 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether  
999 the food beverage is provided from a building, pushcart, stand or vehicle. Prepared Food  
1000 Beverage providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,  
1001 delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,  
1002 bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

1003 Single-use plastic food accessory means any item which is made predominantly of plastic  
1004 derived from petroleum polymer or a biologically-based polymer and is provided for one-time  
1005 use with prepared food (including beverages), such as utensils, chopsticks, portion cups,  
1006 condiment packets, and other similar accessories. This definition excludes items that are  
1007 provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and  
1008 cup trays.

1009 *Single-use plastic straw* means a disposable tube used for the purpose of consuming  
1010 beverages and intended for one-time use, which is made predominantly of plastic derived from  
1011 petroleum polymer or a biologically-based polymer.

1012 *Single-use plastic stirrer* means a device that is used to mix beverages and intended for  
1013 one-time use, and made predominantly of plastic derived from a petroleum polymer or a  
1014 biologically based polymer.

1015 **Sec. 27-~~93~~90. - Prohibition on single-use plastic straws and single-use plastic stirrers.**

1016 (a) ~~Beverage~~ Prepared food providers shall not sell, use, offer for sale or use, or provide  
1017 to any person a single-use plastic straw or single-use plastic stirrer.

1018 (1) Exceptions: Although the discontinuation of the use of single-use plastic straws  
1019 and single-use plastic stirrers is strongly encouraged, this article shall not apply to  
1020 the sale or use of single-use plastic straws or single-use plastic stirrers as follows:

1021 a. Pre-packaged beverages with a single-use plastic straw or single-use plastic  
1022 stirrer that are prepared and packaged outside the city and are not altered,  
1023 packaged or repackaged within the city.

1024 b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers  
1025 that are offered for retail sale to a consumer for personal use, that are prepared

- 1026 and packaged outside the city and are not altered, packaged or repackaged  
1027 within the city.
- 1028 c. By medical or dental facilities.
  - 1029 d. By hospitals.
  - 1030 e. By nursing homes or assisted living facilities.
  - 1031 f. By any disabled person that requires or relies on same to consume beverages  
1032 and/or food supplements.

1033 **Sec. 27-91. – Single-Use Plastic Food Accessories available upon request.**

1034 Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out  
1035 or delivery, unless the single-use food accessory is specifically requested by the customer or is  
1036 provided at a customer self-serve station.

1037 **Sec. 27-92. - Prohibition on use of expanded polystyrene containers on city property or city**  
1038 **right-of-way.**

1039 Any person or entity that is required to obtain a permit, use agreement, or other authorization or  
1040 approval to use city property or city right-of-way pursuant to Chapter 18, Article II. Park  
1041 Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and Chapter 30, Article V. Use  
1042 Standards, is prohibited from using expanded polystyrene containers for the permitted activity on  
1043 city property or city right-of-way. This prohibition excludes the distribution of any prepackaged  
1044 food that is filled and sealed in an expanded polystyrene container prior to receipt by the person  
1045 or entity and it excludes raw meat or seafood that is stored in an expanded polystyrene container  
1046 and sold from a refrigerated display or storage case.

1047 **Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and**  
1048 **balloons.**

1049 All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or  
1050 balloons. Consistent with Section 379.233, Florida Statutes, the following balloon releases are  
1051 exempt from the above prohibition: (a) balloons released by a person on behalf of a  
1052 governmental agency or pursuant to a governmental contract for scientific or meteorological  
1053 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either  
1054 biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation  
1055 Commission, and which are closed by a hand-tied knot in the stem of the balloon without string,  
1056 ribbon, or other attachments. The party responsible for the release shall make available evidence  
1057 of the biodegradability or photodegradability of said balloons in the form of a certificate  
1058 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a  
1059 violation of this act.

1060 **Sec. 27-94. Requirement for the recycling of prescription medicines, single-use plastic bags**  
1061 **and expanded polystyrene containers.**

1062 All businesses distributing and or providing the following items shall provide on-site publicly  
1063 accessible containers for the recycling of the items listed:

1064 (a) Prescription medicines and or drugs;

1065 (b) Single-use plastic bags; and or

1066 (c) Expanded polystyrene containers.

1067 **Sec. 27-95. Requirement for public recycling and composting containers at businesses.**

1068 Any establishment providing receptacles for collecting and disposing of garbage shall provide an  
1069 equal number of collection receptacles for recyclable materials paired next to the garbage  
1070 receptacle. For establishments required to have food waste recycling services, an equal number

1071 of collection receptacles for food waste materials shall also be made available and paired next to  
1072 the garbage and recycling receptacles.

1073 **Sec. 27-96. Requirement for property owners to provide accommodations for solid waste**  
1074 **containers.**

1075 Property owners shall provide tenants with space for commercial service containers for garbage,  
1076 recycling, and organic materials collection or make reasonable accommodations for shared  
1077 commercial service containers for garbage, recycling, and organic materials collection in a  
1078 nearby location.

1079 **Sec. 27-97. Single-family and multifamily composting.**

1080 By January 1, 2024, organic material recycling, including the collection of food waste for  
1081 composting, shall be made available to all residentially serviced customers or later if the  
1082 composting facility infrastructure or capacity is not available.

1083 **Sec. 27-98. - Enforcement; penalties; injunctive relief.**

1084 The city may enforce this article by civil citation in accordance with chapter 2, article V, division  
1085 6. In addition, persons who are not in conformity with these requirements shall be subject to  
1086 appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

1087 **Section 2.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as  
1088 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force  
1089 and effect.

1090 **Sec. 2-339. – Applicable codes and ordinances.**

1091 The following ordinances are enforceable by the procedures described in this division:

Article III. of Chapter 27	Single-use plastic <u>and polystyrene products</u> <del>straws and</del> <del>single-use plastic stirrers</del>	II	\$250.00
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1121 CITY CLERK

CITY ATTORNEY

1122

1123

1124 This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2021.

1125

1126 This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2021.

DRAFT