

Legislative #

200381



32 owners to provide adequate space for commercial service containers for the collection of food  
33 waste from commercial tenants; and

34 **WHEREAS**, in order to regulate the collection of food waste, this Ordinance will require  
35 entities that wish to collect, transport, or process food waste to have a registration; and

36 **WHEREAS**, the goal of the City Commission is to provide curbside food waste  
37 collection to residential properties by January 1, 2025; and

38 **WHEREAS**, the City Commission encourages the development of food waste processing  
39 facilities to meet the future need for additional composting created within the City; and

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

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

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

48 **Section 1.** The Code of Ordinances of Gainesville, Florida is hereby amended by  
49 adding a Division 6 within Article III of Chapter 27, which division reads as follows. Except as  
50 amended herein, the remainder of Chapter 27 remains in full force and effect.

51 **DIVISION 6. – FOOD WASTE**

52  
53 **Sec. 27-95 - Registration of food waste collectors.**

54 (a) Registration required. No person, including a commercial franchisee, shall collect,  
55 transport, convey or process food waste intended for industrial uses or composting in the city for

56 hire, remuneration, or other consideration without a registration certificate from the city. Each  
57 commercial franchise holder who desires to collect food waste in the city intended for industrial  
58 uses or composting shall be granted a food waste registration certificate upon completing an  
59 application and providing the necessary documentation. No application fee will be required for  
60 renewals of existing registration certificates. This subsection does not prohibit the city from  
61 entering into an exclusive franchise agreement or issuing exclusive certificates of registration for  
62 the collection of food waste materials from residential or commercially serviced properties.

63 (b) Application for a Food Waste Collector Registration.

64 (1) Applications for registration shall be obtained from and returned to the solid  
65 waste division.

66 (2) The applicant shall:

67 a. state whether it is a processor, a transporter, or both;

68 b. provide a list of facilities that meet permitting requirements of the  
69 State of Florida where material will be delivered;

70 c. provide disclosure of ownership as set forth below; and

71 d. provide proof of insurance as set forth below.

72 (c) Renewal of registration. The certificate of registration shall be valid for one year.

73 (d) Operating requirements for food waste registrants. Persons collecting, transporting,  
74 conveying food waste in the city shall comply with the following operating requirements:

75 (1) Delivery to food waste processing facility. All food waste shall be delivered to a  
76 food waste processing facility that meets permitting requirements of the State of  
77 Florida. Within 15 days of changing facilities where food waste is being delivered,

78 food waste registrants shall provide the name and location of the new facilities to the  
79 city manager or designee.

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

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

88 (4) Clean-up. A registrant shall handle food waste containers with reasonable care  
89 and return them to the approximate location from which they were collected. A  
90 registrant shall clean up all materials spilled during its collection operation.

91 (5) Emergencies. A registrant shall not be required to provide collection services  
92 when all appropriate food waste collection sites are closed or a city emergency or  
93 imminent emergency exists, as determined by the city manager or designee.  
94 Collections shall resume on the instruction of the city manager or designee.

95 (6) Non-agency. A registrant shall not be deemed an agent of the city and shall be  
96 responsible for any losses or damages of any kind arising from its performance or  
97 nonperformance under its registration. The registrant shall defend at its own expense  
98 or reimburse the city for its defense, at the city's option, of any and all claims and  
99 suits brought against the city, its elected or appointed officers, employees, and

100 agents resulting from the registrant's performance or nonperformance of service  
101 pursuant to the registration.

102 (7) Trucks. A registrant shall use trucks that are capable of preventing spillage or  
103 accidental release of food waste during transport.

104 (8) Insurance. A registrant shall purchase and maintain the types and amounts of  
105 insurance set forth below from companies authorized to do business in the State of  
106 Florida. Failure to maintain insurance shall result in revocation of registration.

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

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

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

111 (9) Other laws, rules and regulations. A registrant shall procure at its own expense  
112 all local, state and federal franchises, certificates, permits or other authorizations  
113 necessary for the conduct of its food waste operations. A registrant and its  
114 employees, officers and agents shall comply with all relevant local, state, and  
115 federal laws, rules and regulations, orders and mandatory guidelines applying to the  
116 collection or processing services being rendered.

117 (10) Effect of certificate. Issuance of a registration certificate by the city shall not be  
118 deemed to be a waiver of any applicable local, state or federal law or regulation,  
119 including but not limited to zoning or planning regulations, with respect to a food  
120 waste operation of any kind, nor shall it create any vested right to own or operate  
121 any type of food waste operation.

122 (11) Hours of operation. A registrant shall make available daily collection of food  
123 waste. Collection shall begin no earlier than 6:00 a.m. and shall cease no later than  
124 9:00 p.m. Monday through Saturday, except in areas of mixed residential and  
125 commercial occupancy where collections shall begin no earlier than 7:00 a.m. and  
126 shall cease no later than 9:00 p.m. Monday through Saturday. Sunday service shall  
127 not begin before 8:00 am and shall cease no later than 9:00 p.m.

128 (e) Separation of residential and commercial materials. Curbside collection of food  
129 waste from commercial generators shall be allowed only with prior approval of the city  
130 manager or designee. When considering a request to provide curbside collection, the  
131 city manager or designee shall consider the following factors:

132 (1) Accessibility of collection vehicles to property.

133 (2) Available space for placement of containers.

134 (3) Predominant use of property.

135 (4) Safety.

136 (f) Reports. The food waste registrants shall submit to the city manager or designee  
137 reports, which shall include data as to number of customers, volume of food waste  
138 collected, food waste processing facilities to which food waste is delivered, and volume  
139 of food waste delivered to food waste processing facilities.

140 **Sec. 27-95.1. - Revocation of food waste collector registration.**

141 (a) Upon a finding of just cause, the public works director or designee shall deny a food waste  
142 collector registration in the case of application for a new or renewed registration, or suspend  
143 or revoke a registration for a specified period of time in the case of previously issued  
144 registration. Just cause shall include but not be limited to a failure to meet the requirements

145 of this division, violation of any of the provisions of this division or any of the ordinances of  
146 the city, or the laws of the United States or the state of Florida, the violations of which  
147 reflect unfavorably on the fitness of the holder to offer food waste collection services to the  
148 public, or loss of any required state permit as a food waste collector, transporter, or  
149 processor.

150 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given  
151 reasonable notice of the proposed action to be taken and shall have an opportunity to present  
152 to the public works director or designee written and oral evidence at a hearing as to why the  
153 registration should not be denied, revoked or suspended. The notice of the proposed action  
154 shall be served upon the applicant or registrant by registered mail or personal service. The  
155 hearing shall be held no earlier than 10 days after notice is received by the applicant or  
156 registrant. Notice of the final decision of the public works director or designee shall be sent  
157 in writing to the applicant or registrant.

158 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public  
159 works director or designee may appeal the decision to the city manager. The appeal shall be  
160 taken by filing written notice thereof, in duplicate, with the city clerk within ten days after  
161 the decision of the public works director or designee. The city clerk shall inform the public  
162 works director of the appeal, and the public works director or designee shall forthwith  
163 transmit to the city clerk copies of all papers constituting the record upon which the action  
164 appealed is based. No later than 15 days after filing the appeal, the city manager or designee  
165 shall review the record and decide whether the decision of the public works director was  
166 based on competent, substantial evidence. If the city manager finds competent, substantial  
167 evidence for the public works director's decision, the city manager will uphold the public



168 works director's decision; otherwise, the city manager will reverse the public works  
169 director's decision. The decision of the city manager shall constitute final administrative  
170 action.

171 **Sec. 27-95.2 – Mandatory commercial food waste collection established.**

172 (a) Commercially-collected residential property food waste collection.

173 (1) All commercially-collected residential serviced property owners/developers and their  
174 affiliated entities, including but not limited to landlords, management companies,  
175 condominium associations, and home owner associations shall, by June 1, 2024,  
176 establish a food waste collection program that:

177 (a) includes collection and diversion of food waste from the waste stream. A  
178 commercially-collected residential property shall, upon request of the city manager  
179 director or designee, produce proof of a valid and current contract with a food  
180 waste registrant or receipts for collection and delivery of food waste materials to a  
181 food waste processing facility that meets permitting requirements of the State of  
182 Florida, unless the commercially-collected residential property is granted an  
183 exemption;

184 (b) provides an industry standard food waste container in a common area on the  
185 property that is as convenient and accessible to the residents as garbage and  
186 recovered materials collection containers. If the city manager or designee  
187 determines the location of food waste containers fails to meet this requirement, the  
188 city manager or designee shall determine an appropriate location on the property  
189 for the food waste containers;

190           (c) provides an adequate level of service and capacity of food waste collection  
191           containers based on the number of residents, units, or generation at the property. If  
192           the city manager or designee determines the level of service and capacity of food  
193           waste containers is inadequate, the city manager or designee shall determine an  
194           appropriate level of service and capacity of food waste containers;  
195           (d) prominently posts and maintains one or more signs in common areas where food  
196           waste is collected that specify the materials accepted as food waste;  
197           (e) distributes food waste collection information in printed or electronic form to each  
198           occupant or unit on the property a) upon commencement of the tenant's lease or  
199           unit sale, b) at least once annually, and c) within fourteen (14) days after any  
200           changes to food waste services on the property; and  
201           (f) at such time when food waste services are made available at property, provides at  
202           least one indoor food waste storage container per unit of a type and design  
203           approved by the city for occupants to easily transport food waste to the collection  
204           area on the property. If the occupant owns the unit, the owner of the unit shall  
205           supply their own indoor food waste storage container.  
206           (2) Exemptions. A commercially-collected residential property may request an exemption  
207           from the requirements of subsection (1). The city manager or designee shall grant a  
208           request for an exemption if the commercially-collected residential property  
209           demonstrates to the satisfaction of the city manager or designee that space is not  
210           available at a given property for additional container placement or provides proof that  
211           the commercially-collected residential property is unable to comply due to lack of  
212           available service providers. An exemption request must be completed and submitted

213 every 6 months using forms provided by the city. The commercially-collected  
214 residential property shall be notified in writing within sixty (60) days of whether its  
215 exemption request is granted or denied.

216 (b) Requirement for commercial establishments to collect food waste. By June 1, 2023,  
217 commercial establishments that generate one cubic yard of food waste or more per week shall  
218 separate food waste from the waste stream and collect food waste in containers that are  
219 separate from garbage and recovered materials. By June 1, 2026, all commercial  
220 establishments shall separate food waste from the waste stream and collect food waste in  
221 containers that are separate from garbage and recovered materials, unless the amount of food  
222 waste generated by the establishment is both de minimus and is less than one cubic yard of  
223 food waste per week. The commercial establishment shall make food waste in the  
224 receptacles available for processing. A commercial establishment shall, upon request of the  
225 city manager director or designee, either provide receipts for delivery of food waste to a food  
226 waste processing facility that meets permitting requirements of the State of Florida or  
227 produce proof of a valid and current contract with a food waste registrant.

228 (c) Maintenance of containers. If a registrant provides food waste containers to its customers, the  
229 registrant will be responsible for the proper maintenance of the container. Customers that  
230 acquire their own containers from any other source are responsible for the proper  
231 maintenance of the container, except that damage done by the registrant shall be the  
232 responsibility of the registrant; and for ensuring that the container can be serviced by the  
233 registrant's equipment.

234 (d) Location of containers. All food waste shall be placed in an appropriate industry standard  
235 container. Where carts are used, they shall be placed at such collection point(s) as may be

236 agreed to between the registrant and the customer, subject to approval by the city manager.

237 All containers shall be kept in a safe, accessible location as designated or approved by the

238 city and agreed to by the registrant and customer.

239 (1) Any commercial establishment providing receptacles for collecting and disposing of

240 garbage and recycling to the public shall provide an equal number of receptacles for

241 collection of food waste paired next to the garbage and recycling receptacles in areas of

242 the establishment where food is consumed. If the commercial establishment is unable to

243 meet the above requirement, the commercial establishment shall work with the city to

244 develop an acceptable alternative plan for the placement of receptacles for food waste

245 on the premises, with the city making the final determination based upon volume of

246 food waste produced and space for receptacle placement at the commercial

247 establishment.

248 (2) Property owners shall provide commercial establishment tenants with space for

249 commercial service containers for food waste collection or make reasonable

250 accommodations for shared commercial service containers for food waste collection in

251 a convenient and nearby location. The commercial service containers should be located

252 such that collection equipment can safely collect waste within the commercial service

253 containers and such that the location of the commercial service containers does not

254 create a health or litter hazard due to the distance from the tenant's commercial

255 establishment. If the property owner is unable to meet the above requirement, the

256 property owner shall work with the city to develop an acceptable alternative plan for

257 the collection of food waste from the tenant, with the city making the final

258 determination as to the location of the commercial service container.

259 **Sec. 27-95.3. - Penalties for violation.**

260 Unless specifically stated otherwise, the city shall enforce violations of sections 27-95, 27-95.1,  
261 and 27-95.2 by civil citation if specifically provided for by section 2-339, through code  
262 enforcement proceedings, by section 1-9 of this Code of Ordinances, or seek injunctive relief in a  
263 court of competent jurisdiction.

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

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

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

<u>27-95</u>	<u>Food waste registration violations</u>	<u>III</u>	<u>\$200.00</u>
<u>27-95.2</u>	<u>Commercial food waste violations</u>	<u>I</u>	<u>\$125.00</u>

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

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

