## Legislative # 190114

## 1 ORDINANCE NO. 190114 2 An ordinance of the City of Gainesville, Florida, amending 3 Sections 27-89 and 27-90 of the City Code of Ordinances, to 4 clarify the definition of single-use carry out plastic bag; providing directions to the codifier; providing a severability 5 clause; providing a repealing clause; and providing an effective 6 date for this ordinance, but delaying enforcement of this 7 ordinance and Ordinance No. 170487 until 8:00 A.M. on 8 9 January 2, 2020. 10 11 WHEREAS, the City Commission finds that this Ordinance serves the interests of 12 13 preservation of our environment and the public health, safety and welfare of City residents and 14 visitors and future generations; and 15 WHEREAS, at least 10 days' notice has been given once by publication in a newspaper 16 of general circulation notifying the public of this proposed ordinance and of public hearings to be 17 held in the City Commission Auditorium, City Hall, City of Gainesville; and WHEREAS, the Public Hearings were held pursuant to the published notice described at 18 which hearings the parties in interest and all others had an opportunity to be and were, in fact 19 20 heard. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE 21 CITY OF GAINESVILLE, FLORIDA: 22 23 Section 1. Section 27-89 of the City Code of Ordinances is amended as follows: Sec. 27-89. Definitions. 24 25 The following words, terms and phrases, when use in this article, shall have the meanings 26 ascribed to them in this section, except where the context clearly indicates a different meaning: 27 Food service provider means a person or entity that provides food directly to the consumer, regardless of whether such food is provided free of charge or sold, or whether consumption occurs 28

on or off premises, or whether the food is provided from a building, pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

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

Expanded polystyrene containers means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

Single-use carry out plastic bag means a bag provided to a customer, typically at the point of sale or distribution, for the purpose of transporting items, which is made predominantly of plastic derived from petroleum or a biologically-based source and is intended for a single use. This definition does not include plastic bags that are specifically designed and manufactured for multiple reuse and meet the following criteria: i) the exterior of the bag contains highly visible language that describes the bags' ability to be reused and recycled; and ii) are constructed of any of the following materials: (1) cloth, other washable fabric, or other durable materials whether woven or non-woven; or (2) recyclable plastic, with a minimum thickness of 2.25 mils.

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

- Section 2. Section 27-90 of the City Code of Ordinances is amended as follows:

  Sec. 27-90. Prohibition on use of expanded polystyrene and single-use carry out plastic bags.
- (a) Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide food or beverage in expanded polystyrene containers. Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide to any person a single-use carry out plastic bag.
- (1) Exceptions: Although the discontinuation of the use of expanded polystyrene containers and single-use carry out plastic bags is strongly encouraged, this article shall not apply to:
  - a. Expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or retail establishment;
  - Expanded polystyrene containers used to store raw meat or seafood sold from a butcher case or similar refrigerated display or storage case;
  - c. Compostable bags that (i) conform to the current ASTM D6400; (ii) are certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (iii) are capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials;

d. Reusable bags, meaning bags with handles that are specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to consumers with the intention of multiple, long term use; or e.d Any bags without handles provided to a customer (i) to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag or recyclable bag, including produce bags; (ii) to hold prescription medications dispensed from a pharmacy or veterinary office; (iii) that is designed to be placed over articles of clothing on a hanger, including dry cleaning bags;

(b) Special event permittees, or any vendor operating under that permittee, shall not sell, use, provide food or drink in, or offer the use of, expanded polystyrene containers or single-use carry out plastic bags in city facilities. Upon warning, the special event permittee or any vendor operating under that permittee must stop use of the expanded polystyrene containers or single-use carry out plastic bags, as applicable.

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

Section 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

96	Section 4. All ordinances or parts of ordinances, in conflict herewith are to the extent of			
97	such conflict hereby repealed.			
98	Section 5. This ordinance shall become effective immediately upon adoption; however,			
99	to allow time for food service providers and retail establishments to expend their current stock of			
100	expanded polystyrene containers and single-use carry out plastic bags and transition to reusable			
101	or compostable alternatives, the City will not commence enforcement of this ordinance or			
102	Ordinance No. 170487 until 8:00 a.m. on January 2, 2020.			
103				
104	PASSED AND ADOPTED THIS	DAY OF, 2019.		
105				
106 107 108 109 110		LAUREN POE MAYOR		
111 112 113 114 115	ATTEST:	Approved as to form and legality		
116 117 118 119	OMICHELE D. GAINEY CLERK OF THE COMMISSION	NICOLLE M. SHALLEY CITY ATTORNEY		
120 121 122	This ordinance passed on first reading this _	day of, 2019.		
123 124	This ordinance passed on second reading the	is day of, 2019.		

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