1	ORDINANCE NO. 200551
2 3 4 5 6 7 8 9 10 11	An ordinance of the City of Gainesville, Florida, amending and renumbering Division 5 within Article III - Solid Waste Disposal of Chapter 27 of the City Code of Ordinances, in order to reduce solid waste by restricting and/or prohibiting certain single use plastic and polystyrene products; by amending Section 2-339 to provide a civil citation penalty; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.
12 13	WHEREAS, on August 15, 2019, the City Commission adopted Ordinance No. 180678, which prohibited single-use plastic straws and single-use plastic stirrers; and
14	WHEREAS, on February 27, 2020, the City Commission approved creation of a
15	Commission Subcommittee to, among other things, develop a draft zero waste ordinance; and
16	WHEREAS, at numerous meetings, the Subcommittee directed staff to work on
17	preparing ordinance(s) that would restrict and/or prohibit certain single-use plastic and
18	polystyrene products within the City with the goal of reducing overall solid waste and the use of
19	disposable plastic and polystyrene products that are harmful to the environment; and
20	WHEREAS, the City Commission finds that this Ordinance will protect the environment
21	by reducing solid waste and will protect the public health, safety and welfare of City residents,
22	visitors and future generations; and
23	WHEREAS, at least 10 days' notice has been given once by publication in a newspaper
24	of general circulation notifying the public of this proposed ordinance and of public hearings to be
25	held in the City Commission Auditorium, City Hall, City of Gainesville; and
26	WHEREAS, the public hearings were held pursuant to the published notice described at
27	which hearings the parties in interest and all others had an opportunity to be and were, in fact
28	heard.

29 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE

30 CITY OF GAINESVILLE, FLORIDA:

Section 1. Division 5 within Article III of Chapter 27 of the Code of Ordinances of
Gainesville, Florida is renumbered and amended to read as set forth below. Except as amended
herein, the remainder of Chapter 27 remains in full force and effect.

34 Chapter 27 – UTILITIES

35 ARTICLE III. – SOLID WASTE DISPOSAL

36 DIVISION 5. - PLASTIC STRAWS AND STIRRERS

37 <u>DIVISION 4. SINGLE-USE PLASTIC AND POLYSTYRENE PRODUCTS</u>

38 Sec. 27-<u>9289</u>. - Definitions.

39 The following words, terms and phrases, when used in this article, shall have the meanings

40 ascribed to them in this section, except where the context clearly indicates a different meaning:

- 41 *Expanded polystyrene container* means any plate, bowl, cup, container, lid, tray, cooler,
- 42 ice chest, and similar items that are made of blown polystyrene and expanded and extruded

43 foams that are thermoplastic petrochemical materials utilizing a styrene monomer and

44 <u>manufactured by fusion of polymer spheres (expandable bead foam), injection molding, foam</u>

45 <u>molding and extrusion-blown molding (extruded foam polystyrene) or any other technique.</u>

46 *Beverage Prepared food provider* means a person or entity that provides <u>food (including</u>
47 beverages) directly to the consumer, that is ready for immediate consumption without any further

48 cooking, mixing, preparation, alteration or repackaging regardless of whether such food beverage

- 49 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether
- 50 the <u>food beverage</u> is provided from a building, pushcart, stand or vehicle. <u>Prepared Food</u>
- 51 Beverage providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,

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52	delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,
53	bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.
54	Single-use plastic food accessory means any item which is made predominantly of plastic
55	derived from petroleum polymer or a biologically-based polymer and is provided for one-time
56	use with prepared food (including beverages), such as utensils, chopsticks, portion cups,
57	condiment packets, and other similar accessories. This definition excludes items that are
58	provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and
59	<u>cup trays.</u>
60	Single-use plastic straw means a disposable tube used for the purpose of consuming
61	beverages and intended for one-time use, which is made predominantly of plastic derived from
62	petroleum polymer or a biologically-based polymer.
63	Single-use plastic stirrer means a device that is used to mix beverages and intended for
64	one-time use, and made predominantly of plastic derived from a petroleum polymer or a
65	biologically based polymer.
66	
67	Sec. 27-9390 Prohibition on single-use plastic straws and single-use plastic stirrers.
68	(a) Beverage Prepared food providers shall not sell, use, offer for sale or use, or provide
69	to any person a single-use plastic straw or single-use plastic stirrer.
70	(1) Exceptions: Although the discontinuation of the use of single-use plastic straws
71	and single-use plastic stirrers is strongly encouraged, this article shall not apply to
72	the sale or use of single-use plastic straws or single-use plastic stirrers as follows:

73	a. Pre-packaged beverages with a single-use plas	tic straw or single-use plastic
74	stirrer that are prepared and packaged outside	the city and are not altered,
75	packaged or repackaged within the city.	
76	b. Boxes of pre-packaged single-use plastic straw	vs or single-use plastic stirrers
77	that are offered for retail sale to a consumer fo	r personal use, that are prepared
78	and packaged outside the city and are not alter	ed, packaged or repackaged
79	within the city.	
80	c. By medical or dental facilities.	
81	d. By hospitals.	
82	e. By nursing homes or assisted living facilities.	
83	f. By any disabled person that requires or relies of	on same to consume beverages
84	and/or food supplements.	
85		
86	<u>Sec. 27-91. – Single-Use Plastic Food Accessories available up</u>	on request.
87	Prepared food providers shall not provide single-use plastic food	accessories for dine-in, take-out
88	or delivery, unless the single-use food accessory is specifically re	quested by the customer or is
89	provided at a customer self-serve station.	
90		
91	Sec. 27-92 Prohibition on use of expanded polystyrene conta	ainers on city property or city
92	<u>right-of-way.</u>	
93	Any person or entity that is required to obtain a permit, use agree	ment, or other authorization or
94	approval to use city property or city right-of-way pursuant to Cha	pter 18, Article II. Park
95	Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and	Chapter 30, Article V. Use
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96	Standards, i	is 1	prohibited fr	rom using	g ex	panded	polv	ystv	yrene	containers	for the	e pei	rmitted	activi	ty c	on

97 <u>city property or city right-of-way</u>. This prohibition excludes the distribution of any prepackaged

98 food that is filled and sealed in an expanded polystyrene container prior to receipt by the person

- 99 or entity and it excludes raw meat or seafood that is stored in an expanded polystyrene container
- 100 <u>and sold from a refrigerated display or storage case.</u>
- 101
- 102 <u>Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and</u>
- 103 <u>balloons.</u>
- 104 <u>All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or</u>
- 105 <u>balloons</u>. Consistent with Section 379.233, Florida Statutes, the following balloon releases are
- 106 exempt from the above prohibition: (a) balloons released by a person on behalf of a
- 107 governmental agency or pursuant to a governmental contract for scientific or meteorological
- 108 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either
- 109 <u>biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation</u>
- 110 <u>Commission, and which are closed by a hand-tied knot in the stem of the balloon without string</u>,
- 111 ribbon, or other attachments. The party responsible for the release shall make available evidence
- 112 of the biodegradability or photodegradability of said balloons in the form of a certificate
- 113 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a
- 114 <u>violation of this act.</u>
- 115
- 116 Sec. 27-94. Enforcement; penalties; injunctive relief.

117	The city may enforce this article by civil citation in accordance with chapter 2, article V, division						
118	6. In addition, persons who are not in conformity with these requirements shall be subject to						
119	appropriate civil action in the court of appropriate jurisdiction for injunctive relief.						
120							
121	Section 2. S	Section 2-339 of the Code of Ordinances of Gainesville, Flor	ida, is	amended as			
122	set forth below. H	Except as herein amended, the remainder of Section 2-339 re	mains	in full force			
123	and effect.						
124	Sec. 2-339. –	Applicable codes and ordinances.					
125	The following ord	linances are enforceable by the procedures described in this	divisio	n:			
	Article III. of Chapter 27	Single-use plastic <u>and polystyrene products straws and</u> single-use plastic stirrers	II	\$250.00			
126							
127	Section 3.	It is the intention of the City Commission that the provision	ns of S	ections 1			
128	and 2 of this Ordi	nance shall become and be made a part of the Code of Ordin	ances	of the City			
129	of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be						
130	renumbered or relettered in order to accomplish such intentions.						
131							
132	Section 4.	If any word, phrase, clause, paragraph, section or provision	n of thi	s ordinance			
133	or the application hereof to any person or circumstance is held invalid or unconstitutional, such						
134	finding shall not affect the other provisions or application of the ordinance which can be given						
135	effect without the invalid or unconstitutional provisions or application, and to this end the						
136	provisions of this ordinance are declared severable.						
137							

Section 5. All ordinances or parts o	f ordinances, in conflict herewith are to the extent of
such conflict hereby repealed.	
Section 6. This ordinance shall bec	ome effective immediately upon adoption; however,
to allow time for education and public awar	eness of these new restrictions and prohibitions,
citations for violations of Secs. 27-91, 27-92	2 and 27-93 will not be issued until after
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PASSED AND ADOPTED THIS	DAY OF, 2021.
	LAUREN POE MAYOR
ATTEST:	Approved as to form and legality
OMICHELE D. GAINEY	NICOLLE M. SHALLEY
	CITY ATTORNEY
This ordinance passed on first reading this	day of, 2021.
This ordinance passed on second reading th	is day of, 2021.
	such conflict hereby repealed. Section 6. This ordinance shall bec to allow time for education and public awar citations for violations of Secs. 27-91, 27-92 PASSED AND ADOPTED THIS PASSED AND ADOPTED THIS OMICHELE D. GAINEY CITY CLERK