ORDINANCE NO. 210129

An ordinance of the City of Gainesville, Florida, amending Article III titled "Solid Waste" of Chapter 27 of the Code of Ordinances by revising definitions; adding requirements for commercial generators of solid waste, commercially-collected residential property, and recovered material registrants; requiring commercially-collected properties of a certain size to have a lease transition plan; requiring retail prescription drug distributors to provide take back programs for prescription drugs; requiring commercial establishments to have additional recycling containers; requiring property owners to provide commercial tenants with adequate space for solid waste and recycling; creating a new division regulating single-use plastic and polystyrene products; providing for civil citations, general penalties in section 1-9, injunctive relief, and code enforcement; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

WHEREAS, on August 15, 2019, the City Commission adopted Ordinance No. 180678, which prohibited single-use plastic straws and single-use plastic stirrers; and

WHEREAS, on February 27, 2020, the City Commission approved creation of a Commission Subcommittee to, among other things, develop a draft zero waste ordinance; and

WHEREAS, at numerous meetings, the Subcommittee directed staff to work on preparing ordinances that addressed a variety of issues related to solid waste, recycling, and food waste; and

WHEREAS, although some regulations regarding food waste will be addressed in this ordinance, the majority of new regulations will be contained in separate ordinances; and

WHEREAS, the City Commission finds that this Ordinance will protect the public health, safety and welfare of City residents, visitors and future generations and will protect the environment by reducing solid waste; and

33 **WHEREAS**, the City Commission finds that this Ordinance is necessary to achieve
34 waste reduction goals of the city by reducing consumption as well as ensuring maximum
35 processing or reuse of recovered materials; and
36 **WHEREAS**, the City Commission finds that this Ordinance will improve health, safety,
37 welfare, and aesthetics of the community by requiring more frequent collection from certain
38 commercial establishments and commercially-collected residential properties and requiring
39 property owners to provide adequate space for commercial tenants to dispose of solid waste; and
40 **WHEREAS**, the City Commission finds that this Ordinance will improve and encourage
41 collection of recyclable materials at commercially-collected residential properties by requiring
42 commercially-collected residential properties to provide information regarding recycling and
43 make recycling separation and disposal convenient for occupants; and
44 **WHEREAS**, the City Commission finds that this Ordinance will reduce disposition of
45 functional household goods at landfills by requiring larger commercially-collected properties to
46 have lease transition plans wherein they will divert household goods from the waste stream
47 during high volume move-in and move-out periods typical of housing geared toward students;
48 and
49 **WHEREAS**, the City Commission finds that improper prescription drug disposal and
50 drug misuse will be reduced by requiring retail commercial establishments that dispense
51 prescriptions drugs to have a prescription drug take back program; and
52 **WHEREAS**, the City Commission finds that this Ordinance will encourage the public to
53 recycle by requiring labeling for solid waste containers and requiring additional recycling
54 collection containers to be placed next to garbage containers at commercial establishments; and

WHEREAS, this Ordinance changes the process for hearing denials, suspension, or revocations of a commercial franchise and registrations for recovered materials by granting authority to the public works director to make the decision and granting authority to the city manager to decide an appeal of the public works director's decision; and

WHEREAS, the City Commission wishes to restrict and/or prohibit certain single-use plastic and polystyrene products within the City with the goal of reducing overall solid waste and the use of disposable plastic and polystyrene products that are harmful to the environment; and

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. Article III of Chapter 27 of the Gainesville Code of Ordinances is amended 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.

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

Sec. 27-72. - Definitions.

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

Applicant shall mean

(a) a person applying to the city for a franchise required to provide commercial service or collect construction and demolition debris within the city for hire, remuneration or other consideration~~.~~; or

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

(c) a person applying to the city for a registration certificate required to collect, process, convey, or transport food waste within the city for hire, remuneration, or other consideration.

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

Cart shall mean a serial-numbered, two-wheeled container with attached lid and handle, available in approximately 20, 35~~0~~, 65~~0~~, and 95~~0~~ gallon sizes, supplied and distributed by the solid waste collector.

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

103 403.7046.

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

105 *Commercial establishment* shall mean any space used primarily for business activities.

106 *Commercial establishment* does not include residential properties, even if such residential

107 properties are managed or owned by a commercial entity.

108 *Commercial franchisee* shall mean a person who has filed an application with, and

109 received a franchise from, the city to provide one or more of the following services:

110 (a) commercial service;

111 (b) collection of construction and demolition debris.

112 *Commercial generator* shall mean a person who is eligible to receive commercial service

113 under this article and who is the point of origination of solid waste or recovered materials.

114 *Commercial service* shall mean pickup of garbage and trash, but excluding hazardous

115 waste, biomedical waste and yard ~~trash~~ waste, provided by a commercial franchisee to one of the

116 following:

117 (1) a licensed mobile home park ~~exceeding four~~ with five or more dwelling units~~:~~;

118 (2) multi-family residences ~~exceeding four~~ with five or more dwelling units under one

119 common roof~~:~~;

120 (3) any residential property that has opted-out of residential service under the terms of

121 this article and is eligible to receive commercially-collected residential service, or residential

122 property that is required to receive commercially-collected residential service~~:~~;

123 (4) business, commercial or industrial enterprises of all types licensed to do business in

124 the city.

125 *Commercial service container* shall mean an industry-standard container constructed of
126 non-absorbent material, with or without a cover, made for mechanized pickup. It includes
127 dumpsters and carts.
128 *Commercially-collected residential service* shall mean the collection of solid waste, other
129 than hazardous waste and bio-medical waste, provided to persons occupying residential dwelling
130 units ~~in buildings with five or more dwelling units within the city and persons occupying~~
131 ~~residential dwelling units in buildings with two to four dwelling units within the city who have~~
132 ~~been allowed by the city to opt-out of residential service~~ in a development where one or more of
133 the following criteria exists:
134 1) the development has at least one building with five or more dwelling units;
135 2) the development has a building with two to four dwelling units which has been
136 allowed by the city to opt-out of curbside residential service;
137 3) separate developments that share common infrastructure (such as a shared parking lot),
138 ownership, property management, or home owner association but have four or less
139 units per building when the city manager or designee has determined commercially-
140 collected residential service will improve aesthetics or efficiency of collection.
141 *Compactor* shall mean any container that has a compaction mechanism.
142 *Construction and demolition debris* shall mean materials generally considered to be not
143 water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete,
144 asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or
145 destruction of a structure as part of a construction or demolition project or from renovation of a
146 structure, and including rocks, soils, tree remains, trees, and other vegetative matter that
147 normally results from land clearing or land development operations for a construction project,

148 including such debris from construction of structures at a site remote from the construction or
149 demolition project site. Mixing of construction and demolition debris with other types of solid
150 waste, including material from a construction or demolition site which is not from the actual
151 construction or destruction of a structure will cause it to be classified as other than construction
152 and demolition debris.

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

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

162 *Customer* shall mean the person, organization or corporation responsible for payment of
163 all residential, commercial or commercially-collected residential services used at a specific
164 location, and further defined as that person, organization or corporation who signed the utility
165 application or commercial service contract requesting that services be made available at the
166 specific location and thereby agreeing to pay for all usage of such services occurring at the
167 location.

168 *De minimus* quantity shall mean

169 (a) no more than 15 percent by volume of total designated recyclable materials,

170 regardless of type, in a solid waste load delivered to a city facility or a facility under contract

171 with the city or in a solid waste container at point of generation; or

172 (b) no more than ~~15~~ 10 percent by volume of non-recovered materials ~~non-putrescible~~

173 ~~and no more than five percent by volume putrescible solid waste~~ in a recovered material

174 container at the point of generation~~.~~; or

175 (c) no more than 15 percent by volume of food waste in a solid waste load delivered to a

176 city facility or a facility under contract with the city or in a solid waste container at point of

177 generation.

178 *Designated recyclable materials* shall mean those recyclable materials that are designated

179 ~~in writing~~ by the city manager or designee as potential recovered materials.

180 *Dumpster* shall mean a large container for waste which is one cubic yard in size or

181 greater designed for mechanized pickup into a specially equipped truck for collection.

182 *Dwelling unit* shall mean a living unit, house, mobile home, apartment or building used

183 primarily for human habitation.

184 *Food* shall mean nutritious substances eaten or consumed to sustain human or animal

185 growth and repair vital processes and to furnish energy.

186 *Food service establishment* means any place where food is prepared and intended for

187 individual portion service, and includes the site at which individual portions are provided. The

188 term includes any such place regardless of whether consumption is on or off the premises and

189 regardless of whether there is a charge for the food. The term includes delicatessens that offer

190 prepared food in individual service portions. The term does not include schools, institutions,

191 fraternal organizations, private homes where food is prepared or served for individual family

192 consumption, retail food stores, the location of food vending machines, cottage food operations,
193 and supply vehicles, nor does the term include a research and development test kitchen limited to
194 the use of employees and which is not open to the general public.

195 *Food waste* shall mean food that is no longer edible or fit for human or animal
196 consumption, nonedible parts of food, or food soiled paper, resulting from food production,
197 preparation, and consumption activities of animals and humans that consists of, but not limited
198 to, vegetables, grains, animal products and byproducts, that have known compostable potential
199 and can be separated from the solid waste stream. *Food waste* does not include *food* as that term
200 is defined in this article.

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

205 *Living unit* shall mean a place where people reside on a non-transient basis, containing a
206 room or rooms comprising the essential elements of a single housekeeping unit. Each separate
207 facility for the preparation, storage and keeping of food for consumption within the premises
208 shall be considered a separate living unit.

209 *Organic materials* shall mean yard waste, vegetative waste, food waste, non-recyclable
210 paper, or other materials that have known compostable potential, can be feasibly composted
211 and can be diverted and source separated or removed from the solid waste stream, whether or
212 not the materials require subsequent processing or separation.

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

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

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

222 *Receptacle* shall mean a container, which is smaller than a 95 gallon cart, intended for the
223 disposal of garbage, recovered materials, or food waste prior to being placed in a cart or
224 dumpster.

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

231 *Registrant* shall ~~be~~ mean

232 (a) a person who has made application with the city to collect, transport, convey or
233 process recovered materials in the city and has subsequently received a registration certificate
234 from the city~~.~~; or

235 (b) a person who has made application with the city to collect, transport, convey or
236 process food waste in the city and has subsequently received a registration certificate from the
237 city.

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

241 *Solid waste* shall mean sludge unregulated under the federal Clean Water Act or Clean
242 Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution
243 control facility, or garbage, rubbish, ~~trash~~ refuse, special waste, or other discarded material,
244 including solid, liquid, semisolid, or contained gaseous material resulting from domestic,
245 industrial, commercial, mining, agricultural or governmental operations. Recovered materials as
246 defined in this article are not solid waste.

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

250 *Source separated* shall describe those recovered materials separated from solid waste
251 ~~(except other recovered materials or de minimus amount of solid waste)~~ where the recovered
252 materials and solid waste are generated.

253 *Trash* shall mean ~~accumulations of paper, magazines, packaging, containers, sweepings~~
254 ~~and all other accumulations of a nature other than garbage and lawn trash, and excluding~~
255 ~~designated recyclable materials, which are usual to housekeeping and the operation of stores,~~
256 ~~offices and other business places~~ nonputrescible debris that is generated by households,
257 businesses, and institutions.

258 *Yard ~~trash~~* waste shall mean all accumulations of grass, leaves, shrubbery, vines, tree
259 branches and trimmings which are normally associated with the care and maintenance of
260 landscaping.

261 **Sec. 27-73. - Prohibited acts.**

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

263 (1) To place or cause to be placed any garbage, ~~or~~ trash, recovered materials, or food waste
264 upon the property of another~~;~~.

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

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

268 (b) Persons transporting their own solid waste generated by their own dwelling unit or
269 establishment to an appropriate disposal site~~;~~.

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

273 (a) Commercial generators transporting their own debris;

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

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

279 (a) Persons whose primary business is freight transport that may involve the intermittent
280 transport of recovered materials~~:~~;

281 (b) Commercial generators transporting their own recovered materials; and

282 (c) Persons transporting their own recovered materials generated by their own dwelling

283 unit or establishment to an appropriate recycling site~~;~~.

284 (5) To collect recovered materials from a solid waste container used by a consumer or

285 commercial customer receiving service from a franchisee, franchise or registrant, after the

286 consumer or commercial customer places the container and recovered materials at the curb or

287 designated area for collection, except as permitted by the city on an emergency interim basis as

288 part of the city's recycling program when the city manager or designee determines that it is

289 necessary to protect public health, safety or welfare~~;~~.

290 (6) To allow solid waste, ~~or~~ recovered materials, or food waste to spill, blow or drop from

291 any vehicle on any road or to transport any solid waste, ~~or~~ recovered material, or food waste over

292 any public road unless the solid waste, ~~or~~ recovered material, or food waste is securely tied or

293 covered so as to prevent leakage or spillage onto the road~~;~~.

294 (7) To place or store solid waste, recovered materials, or food waste on any property for a

295 period in excess of one week, unless it is securely contained or covered.

296 (8) To deposit or dispose of any garbage, ~~or~~ trash, or recovered materials on the paved or

297 traveled portion of any public street, or any alleyway, sidewalk, bike path, stream, ditch, river,

298 pond, bay, creek, park, other right-of-way or public place in the city except at areas as may be

299 designated by the city.

300 (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or

301 landfill within the city without first obtaining the permission of the custodian thereof~~;~~.

302 (10) To burn any garbage or trash within the city, except at designated incinerators or

303 landfills, without first obtaining a permit from the city~~;~~.

304 (11) To produce or accumulate any construction and demolition debris, tree branches or

305 similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or

306 building contractor), without removal of the same to a designated disposal area~~;~~.

307 (12) To allow any scattered garbage, ~~or~~ trash, recovered materials, or food waste to remain at

308 or near the curbside, or to fail to remove any windblown or animal scattered garbage, ~~or~~ trash,

309 recovered materials, or food waste from a public area and right-of-way which have blown or

310 otherwise scattered from the person's dwelling unit curbside collection point~~;~~.

311 (13) To place any solid waste, ~~or recyclable~~ recovered materials, or food waste out for

312 collection by any alley service drive, easement or right-of-way not serviced by collection trucks~~;~~.

313 (14) To place any solid waste, ~~or recyclable~~ recovered materials, or food waste out for

314 collection adjacent to the street if collection trucks service the area from an established alley~~;~~.

315 (15) To place any solid waste, ~~or recyclable~~ recovered materials, or food waste in an

316 underground container for pickup~~;~~.

317 (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of

318 the city.

319 (17) To deposit any hazardous waste as defined in F.S. § 403.703, in any cart or commercial

320 service container~~;~~.

321 (18) To place or cause to be placed any garbage, trash, ~~recyclable~~ recovered materials, food

322 waste, or other solid waste in the cart or commercial service container belonging to another

323 without proper authority~~;~~.

324 (19) To remove any materials, without proper authority, from any container belonging to

325 another which contains materials set out for recycling~~;~~.

326 (20) To mix yard ~~trash~~ waste with normal solid waste loads, whether for residential or

327 commercial service.

328 (21) To leave uncovered a garbage, recovered material, or food waste container that has a lid

329 or fitted cover.

330 (22) To collect garbage, trash, recovered material, or food waste in a container without a

331 properly sized or fitted cover, except for residential curbside recycling bins designed to be open-

332 topped containers.

333 (23) To collect, process, convey or transport food waste in the city without having registered

334 with the city, except as follows:

335 (a) Commercial generators transporting their own food waste; and

336 (b) Persons transporting their own food waste generated by their own dwelling unit or

337 establishment to a food waste processing site that meets the permitting requirements of the State

338 of Florida.

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

340 (a) The city manager or designee shall have the authority to make regulations

341 concerning the days of collection, type and location of collection containers and other such

342 matters pertaining to the storage, collection, conveyance and disposal as necessary and to change

343 or modify the same after reasonable notice to affected persons.

344 (b) Except as provided otherwise, provisions of this division may be enforced by civil

345 citation if specifically provided for by section 2-339, enforced as provided by section 1-9,

346 enforced by code enforcement proceedings, or the city may seek injunctive relief.

347 (c) ~~(b)~~The city manager or designee ~~is responsible for the enforcement of~~ may enforce

348 regulations regarding storage, collection, conveyance and disposal of all solid waste, ~~and~~

349 ~~recyclable~~ recovered materials, and food waste generated within the city, including
350 accumulations of same that may be in violation of this article or other solid waste regulations.
351 (d) If a ~~A~~ notification of violation ~~will be~~ was provided and correction of the violation
352 ~~shall be~~ was not made in the time specified by the notice~~; however, failing correction~~, the city is
353 hereby authorized to collect and dispose of the material causing the violation and to bill the
354 customer or owner of record of the property for the cost of providing this additional collection
355 and disposal service.
356 **Sec. 27-75. - Commercial service and commercially-collected residential service.**
357 (a) *Provided:* Commercial service shall be provided by collectors authorized to provide
358 such service under a franchise with the city to persons that do not qualify to receive residential
359 service. Collection of designated recyclable materials shall be provided by registrants, including
360 franchisees who are registrants.
361 (b) *Collection frequency and method:* Each ~~C~~commercial generators or commercially-
362 collected residential service customers shall enter into an agreement with a franchisee of the city
363 for the frequency and method of ~~refuse~~ garbage collection except where 1) landlords provide
364 service through a franchisee, or 2) commercial generators reach a dumpster sharing arrangement
365 with an adjacent generator or a generator whose shared dumpster is within 500 feet (or further if
366 approved by the city manager or designee) of each commercial generator's service door and one
367 of the generators has an agreement with a franchisee. If a commercial generator has a dumpster
368 sharing arrangement, proof of such an arrangement shall be submitted to the city upon request.
369 Except as specifically provided below, s~~S~~uch service shall be received no less than one time per
370 week with no exception for holidays, except that collection service scheduled to occur on a
371 holiday may be rescheduled with written notice to the customer as long as minimum frequency is

372 met. Collection service provided to compactors is exempt from this minimum frequency.
373 Commercially-collected residential service not serviced by a compacting dumpster shall receive
374 a minimum of twice per week service. The following commercial establishments not serviced
375 by a compacting dumpster shall not let food waste remain in a commercial service container for
376 more than two consecutive working days: 1) any establishment licensed to sell alcohol, beer, or
377 wine for consumption on premises; 2) grocery stores selling fresh produce, raw meat, and
378 packaged food primarily for consumption off premises; and 3) food service establishments.
379 When necessary to protect the public health or to enforce the purpose of this article, the city
380 manager or designee shall have the authority to stipulate the frequency of collection or require
381 the implementation of a plan to eliminate the hazard caused by excess accumulation of waste.
382 Service shall consist of the mechanical dumping of commercial containers capable of being
383 unloaded by proper equipment; or a manual hand service dumping of containers located at
384 agreed upon sites upon the property; or other levels of service as may be required or agreed to. If
385 the franchisee fails to perform collection according to the contract, the customer shall have 30
386 days from the first such failure to enter into an agreement with another franchisee before being
387 cited for violation of this subsection.
388 (c) *Preparation and storage.* ~~Storage~~ Collection containers shall be drained of free
389 liquids prior to accumulation for collection. Storage areas and areas adjacent to the storage area
390 shall be maintained by the customer in a neat, sanitary and sightly manner. Customers are
391 responsible for maintaining the accessibility to ~~storage~~ collection containers or areas. If pickups
392 are missed due to customer's failure to maintain accessibility, and unsanitary or unsightly
393 conditions result, the customer shall be in violation of this article. All ~~storage~~ collection
394 containers that are to be picked up by collection trucks must be approved by the city as meeting

395 acceptable standards established by the city. Readily apparent damage to storage areas or
396 container enclosures, normal wear and tear excepted, caused by the collector driver shall be
397 reported by the driver to the customer prior to leaving the collection area if the business or
398 management office is open and if not, by radio to the contractor's office, and personnel from the
399 office will then contact the customer at the earliest possible time.

400 (d) *Commercial service containers*. The following commercial service container
401 standards are guidelines under which the owners of containers, as well as the lessees of
402 containers, will conform in order to ensure a healthy and aesthetically pleasing environment for
403 the ~~citizens~~ residents and visitors of the city:

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

407 (2) Every commercial service container ~~will~~ shall be clearly marked ~~on the front of~~
408 ~~the container~~ with the following information and comply with the following
409 standards:

410 a. A serial or property control number on the front or side of the commercial
411 service container;

412 ~~b. "NO PARKING," "UNAUTHORIZED ENTRY OR USE PROHIBITED,"~~
413 ~~AND "DEPOSITING OF FLAMMABLE LIQUIDS OR EXPLOSIVES~~
414 ~~PROHIBITED" labeled conspicuously across its front.~~

415 b. By October 1, 2023, every commercial service container, except for
416 construction and demolition debris collection containers, shall follow the City's

417 approved color and educational labeling format as set forth in ordinance and
418 regulations maintained on file with the solid waste division.
419 (3) Every recovered materials commercial service container shall be clearly and
420 conspicuously labeled across the front of a dumpster or the lid of a cart, as
421 applicable, with the following information:
422 a. "RECYCLING", "RECYCLING ONLY" or "RECYCLE HERE".
423 b. "NO GARBAGE".
424 c. List of designated recyclable materials accepted in that container, such as
425 "CARDBOARD ONLY," that is texted-based, image-based or a
426 combination of text and images.
427 d. Educational labeling shall be:
428 i. Clearly and conspicuously placed on and consist of at least twenty-five
429 (25) percent of the area of the front loading side of dumpsters or cart
430 lids;
431 ii. Printed in both the English and Spanish language.
432 (4) Every organic materials commercial service container shall be clearly and
433 conspicuously labeled across the front of a dumpster or the lid of a cart, as
434 applicable, with the following information:
435 a. "YARD WASTE ONLY", "COMPOST ONLY" or "FOOD WASTE
436 ONLY".
437 b. "NO GARBAGE".
438 c. List of organic materials accepted in that container that is texted-based,
439 image-based or a combination of text and images.

d. Educational labeling shall be:

i. Clearly and conspicuously placed on and consist of at least twenty-five (25) percent of the area of the front loading side of dumpsters or cart lids;

ii. Printed in both the English and Spanish language.

(~~3~~5) Each container ~~must~~ shall be free of rust holes, broken hinges or broken door fasteners and will have solid substantial bottoms with at least one drain hole for purposes of cleanout.

(~~4~~6) All necessary containers ~~will~~ shall have properly fitting lids and or side door(s) in place that close automatically when lifted and that will prevent the entry of rodents, snakes and other animals, and allow for opening and closing action during the emptying cycle. Containers used for storage of materials other than garbage must meet the same criteria~~,~~. ~~except that lids~~ Lids or covers may not be required if the city manager or designee determines that it does not pose a threat to the health, welfare or safety of the ~~citizens~~ residents and visitors, or cleanliness of the container site or adjacent community.

(~~5~~ 7) Containers at commercial locations are not to be filled to a height exceeding the level of the highest portion of the container body or rim. This limitation applies to dumpsters, carts, ~~cans, bins~~ or any other method employed for storage. Customers must arrange for items such as furniture, appliances, construction and demolition debris or any material not considered a part of the customer's normal collection service to be picked up within seven days of being placed for collection. If these items are not picked up within seven days of being placed for collection, the city

manager or designee may provide notice to the customer by hand delivery or certified mail, return receipt requested. If the customer has not removed the refuse within 24 hours after notification by the city, the city manager or designee may order such removal and all costs incurred shall be placed against the customer's utility account. At no time will any solid waste or storage containers be placed on the travel portions of any walk, street or alley within the city without prior authorization from the city manager or designee.

~~(6) The city waste control inspector shall notify the owners and/or lessees of containers not maintained in a condition of good repair or in violation of any provision of this section either by hand delivery of such notice or by sending notice by certified mail, return receipt requested and shall also post a notice in a conspicuous place on the premises. After notice is given in writing, the owner and/or lessee will have 24 hours in which to repair or replace any container that is a hazard during the unloading cycle and seven working days in which to repair or replace all other violations.~~

(e) *Receptacles for public use.* Garbage and recycling receptacles available for public, customer, or employee use at commercial establishments must integrate labeling consisting of text and images on the body or adjacent to the opening of the container that is consistent with City provided samples provided by the solid waste division.

Sec. 27-76. - Residential service.

(a) *Provided.* Residential service shall consist of curbside collection of all garbage, ~~and household~~ trash, designed recyclable materials, and an optional service of backyard collection of garbage, trash, and designated recyclable materials ~~household trash~~.

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

(1) *Garbage ~~and household trash~~*:

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

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

~~garbage and household trash~~ collection containers in any location or at any times not provided for in this subsection. Garbage and ~~household~~ trash placed in containers other than the assigned cart or pre-paid approved garbage disposal bags will not be collected. Non-disposable or reusable containers intended not to be picked up by the collectors shall be clearly and appropriately identified. Anyone placing garbage or ~~household~~ trash in containers other than the assigned cart or pre-paid garbage disposal bags will be in violation of this article.

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

(2) *Yard ~~trash~~ waste*. Yard ~~trash~~ waste that is properly bundled or containerized in such manner to enable one person to lift the ~~trash~~ yard waste in a single lifting movement

532 to place same in the compaction truck, and which bundles or containers do not
533 exceed 40 pounds in weight and five feet in length, will be collected at curb or
534 roadside. If tree or shrubbery trimmings are not containerized they may be placed at
535 curbside in a compact pile not containing any items exceeding 40 pounds in weight
536 and five feet in length and will be picked up. Grass, leaves and pine straw must be
537 containerized by either using disposable or reusable containers, and will be
538 collected if properly placed for collection at curb or roadside. Non-disposable or
539 reusable containers intended not to be picked up by the collectors shall be clearly
540 and appropriately identified. Concrete, dirt, bricks, appliances, furniture or similar
541 items are not considered yard ~~trash~~ waste, and will not be collected except by
542 special service as described in section 27-77.
543 (3) *Recycling Containers* ~~*Bin provided*~~. Each dwelling unit shall be provided a ~~bin~~
544 container for the purpose of storage and disposal of designated recyclable materials.
545 Designated ~~R~~recyclable materials that meet the requirements set forth by the city
546 manager or designee shall be collected from curb or roadside. Designated
547 ~~R~~recyclable materials not fitting in the bin may be placed in non-disposable
548 containers or paper bags and will be collected at curb or roadside.
549 (c) *Responsibility for scattered garbage or trash*. Customers are responsible for the cleanup from
550 bags torn or cans spilled by animals, or otherwise spilled through no fault of the collectors.
551 Collectors are not required to sweep, fork, shovel or otherwise clean up trash or garbage that
552 has become scattered or is otherwise not readily picked up and placed in the compaction
553 truck, including spillage resulting from overloaded containers.

554 (d) *Backyard option and service fee exception.* The residential service program will allow
555 customers the option of requesting backyard collection. (This does not include yard ~~trash~~
556 waste.) Such requests must be made in writing to the city manager or designee 30 days in
557 advance of the start of service and once requested, such service and associated fees shall
558 remain in effect for a minimum of six months. Service charges for backyard service as
559 specified in the schedule set out in Appendix A may be waived and the uniform curbside
560 service charge applied where all occupants of the dwelling unit are physically ~~incapacitated~~
561 ~~and~~ unable to transport their cart and bin to the curb. Customers desiring backyard service at
562 the curbside rate must be certified as to the necessity for this service by the city manager or
563 designee who may impose such reasonable conditions as may be required for such service
564 and certification.
565 (e) *Service charges.* In order to cover the direct cost, including but not limited to inspecting,
566 billing, collecting, handling, hauling and disposal of solid waste, yard ~~trash~~ waste and
567 designated recyclable materials, and indirect cost, including but not limited to administration,
568 accounting, personnel, purchasing, legal and other staff or departmental services, service
569 charges in accordance with the schedule set out in Appendix A shall be paid monthly to the
570 city, which charge shall be included on the regular monthly statement for utility service.
571 (f) *Residential service exclusion.*
572 (1) Owners of buildings containing two to four residential dwelling units may petition
573 the city to be excluded from residential service and allowed to contract for
574 commercially-collected residential service.
575 (2) Petitions for exclusion shall be made to the city manager or designee.

576 (3) Petitions shall be made on city-provided forms, and shall contain the following
577 information:
578 a. Applicant's name.
579 b. Address of the property proposed to be excluded and number of dwelling units.
580 c. A copy of the proposed service agreement between the applicant and a
581 franchised commercial provider, including the level and type of services to be
582 provided and the number of dwelling units to be served.
583 (4) Upon receipt of a properly executed application and verification of the supporting
584 documentation, the city manager or designee shall decide whether to grant the
585 exclusion based on the following criteria:
586 a. Collection history (whether commercial or residential)
587 b. Accessibility of collection vehicles to property.
588 c. Available space for placement of carts.
589 d. Predominant use of property.
590 e. Safety.
591 f. Level of service requested by residents.
592 (5) The city manager or designee shall notify the applicant in writing of the decision.
593 (6) If the exclusion is approved, it shall be effective until terminated. ~~from the date~~
594 ~~specified by the city manager or designee until September 30, 2004,~~ ~~unless~~ An
595 exclusion may be terminated ~~earlier~~ by the city manager or designee or designee, or at
596 the request of the property owner, due to changes in the contract between the city and
597 its solid waste collector or change in circumstances concerning the property.

598 (7)~~ If the exclusion is approved, the applicant must contract for recycling service~~

599 ~~specified in section 27-85.~~ Regardless of whether owners of a building petition the

600 city for a residential service exclusion, the city manager or designee may require

601 separate developments that share common infrastructure (such as a shared parking lot),

602 ownership, property management, or home owner association but have four or less

603 units per building to have commercially-collected residential service consisting of a

604 dumpster when the city manager or designee has determined collection by dumpster

605 will improve aesthetics of the neighborhood or efficiency of collection,

606 **Sec. 27-77. - Special service.**

607 (a) *Described.* Any waste which, by reason of its bulk, shape or weight, cannot be placed

608 in a container or bundled, or which exceeds the size and weight limitations of any section of this

609 article, will be collected and disposed of by the contractor on an on-call basis.

610 (b) *Scheduling and rates*. Special collection will be scheduled at the earliest reasonable

611 time by the contractor. The fee for special service collection and disposal will be arranged

612 between the customer and the contractor. The contractor will bill directly for such services and

613 collect a reasonable fee agreed to jointly by the contractor and the customer prior to the work

614 being performed.

615 **Sec. 27-78. - Reserved.**

616 **DIVISION 2. - COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION**

617 **DEBRIS FRANCHISE**

618 **Sec. 27-79. - General provisions.**

619 (a) It shall be unlawful to commence or engage in the business of providing containers

620 for commercial service or providing commercial service or construction and demolition debris

collection and disposal to properties in the city without a franchise issued by the city in accordance with this article.

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

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

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

(e) Collection times shall be as follows:

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

~~(2) Notwithstanding paragraph (e)(1), the city manager or designee may set other hours for the purpose of improving collection operations or safety, by the city first holding a neighborhood workshop to inform various residents, businesses and~~

644 ~~other stakeholders of the change being considered, and to solicit their input. The~~
645 ~~workshop will be held in a location generally near the subject area in a facility that~~
646 ~~is ADA compliant. The city will provide notification by mail to all owners of~~
647 ~~property and neighborhood associations within the area being considered as well as~~
648 ~~those within 400 feet of the perimeter of that area. The notices will be mailed at~~
649 ~~least 14 days before the workshop and the city will also advertise the workshop in a~~
650 ~~newspaper of general circulation at least 14 days before the date of the workshop.~~
651 ~~The workshop must start between 6:00 p.m. and 8:00 p.m. on a weekday or between~~
652 ~~9:00 a.m. and 5:00 p.m. on a weekend. The city shall prepare a written summary of~~
653 ~~the neighborhood meeting that includes a list of those in attendance, a summary of~~
654 ~~the issues discussed, and comments, concerns and suggestions by those in~~
655 ~~attendance. Any change in collection times shall be established in a written~~
656 ~~memorandum outlining the justification. All memoranda establishing collection~~
657 ~~times, and summaries of the neighborhood meetings, shall be retained on file by the~~
658 ~~solid waste division and made available to the public for inspection. These~~
659 ~~collection times should be reviewed periodically to determine whether the~~
660 ~~operational justification continues to exist.~~
661 (~~3~~ 2) ~~Notwithstanding paragraph (e)(1), the city manager or designee may~~
662 ~~authorize collection on Sunday where special needs of the customer make it~~
663 ~~necessary.~~ In the event of an emergency, a franchisee may collect at times not
664 allowed by this section, provided the city manager grants prior approval, to be later
665 evidenced by a written memorandum. If no written memorandum is obtained, there
666 shall be a presumption that the franchisee had not obtained prior approval. All

667 written memoranda issued shall be retained on file by the solid waste division and
668 made available to the public for inspection.
669 (f) Franchisee shall not be relieved of the obligation to promptly comply with any
670 provision of the franchise by failure of the city to enforce compliance with the franchise.
671 (g) The franchise granted hereunder may be exclusive. Any exclusive franchise granted
672 by the city shall be selected through a competitive procurement process. The city reserves the
673 right to grant similar rights or franchises to more than one person or corporation as well as the
674 right in its own name to use its streets for purposes similar to or different from those allowed to
675 franchisees hereunder.
676 ~~(h) For all contracts between customers and commercial franchisees as of January 1,~~
677 ~~1997, the franchisee shall pass through to its customers any savings realized through reduced~~
678 ~~service levels that the franchisee experiences due to the customers' participation in the mandatory~~
679 ~~recycling program.~~
680 (~~i~~ h) If a franchisee fails to perform its contract with any customer for longer than two
681 weeks, the city may perform the work using its own equipment or assign the work to another
682 franchisee, who shall be entitled to receive the revenue from the customer for work performed
683 that would have gone to the defaulting franchisee.
684 (~~j~~ i) The franchisee shall submit to any load inspection program that the city may
685 reasonably devise.
686 (~~k~~ j) Yard waste from a commercial generator or customer shall be collected separately
687 from other solid waste. Each commercial franchisee shall inform all of its commercial customers
688 of this requirement.

689 (~~l~~ k) A commercial franchisee shall respond to and, if feasible, resolve all complaints
690 received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to
691 and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00
692 noon the next day. An emergency telephone number where the commercial franchisee can be
693 reached shall be given to the city manager or designee.

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

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

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

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

711 (~~q~~ p) Each franchisee must provide the city with the location of the disposal site it uses
712 for construction and demolition debris.
713 (~~r~~ q) In order to ensure that the franchisee provides a quality level of solid waste and
714 recycling collection services, the following standards and fines are set.
715 (1) All complaints received by the city and reported to the franchisee shall be
716 promptly resolved. Any complaint received by the franchisee shall be entered on a
717 form approved by the city. All complaints received during the business day shall be
718 transmitted on the approved form by 5:00 p.m. each business day. Any complaint
719 received before noon shall be resolved the same business day. All other complaints
720 shall be resolved by the end of the next business day.
721 (2) In the event legitimate complaints shall exceed two percent of the total
722 customers served by the franchisee during any city fiscal year, or 0.5 percent of the
723 total customers serviced by the franchisee during any calendar month, the city may
724 seek fines for the following violation of this article, on a per incident basis, when
725 committed by the franchisee:
726 a. Commingling solid waste with ~~vegetative~~ yard waste and/or designated
727 recyclable materials.
728 b. Failure to replace damaged container within seven days of notification (48
729 hours for commercially-collected residential customers).
730 c. Throwing of garbage cans or recycling containers.
731 d. Failure to transmit commercial complaint forms as specified in this
732 subsection.
733 e. Failure to repair damage to customer's property.

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

a. Failure to provide clean, safe, sanitary equipment.

b. Failure to maintain required office hours.

c. Failure to maintain proper licenses.

d. Failure to display franchisee name and phone number on equipment or containers.

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

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

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

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

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

Sec. 27-79.1. - Term of franchise.

Any non-exclusive-franchise issued shall be by application. The term of any non-exclusive franchise shall extend until 11:59 p.m. on September 30 of each year unless forfeited or revoked sooner, or be held month to month, as provided herein. In any year in which the city is transitioning from non-exclusive franchises to an exclusive franchise system, the term of non-

756 exclusive franchises will be month to month instead of one year. If the city issues an exclusive
757 franchise, the term of the exclusive franchise agreement shall be as set forth in the agreement.
758 **Sec. 27-80. - Franchise fees.**
759 (a) *Amount of fee.*
760 (1) The commercial franchisee providing commercial service shall pay as
761 compensation to the city, for the rights and benefits granted hereunder, a monthly fee
762 as described in Appendix A. For purposes of the calculation stated as Appendix A,
763 gross revenues shall consist of all revenues from the sale or lease of containers, all
764 revenues from garbage and trash collection services, all disposal billed, late fees, bad
765 debt recoveries and other fees collected from customers, with no deductions except
766 for bad debts actually written off.
767 (2) The commercial franchisee providing construction and demolition debris
768 collection service shall pay as compensation to the city, for the rights and benefits
769 granted hereunder, an annual fee calculated based on all vehicles owned, leased, or
770 otherwise used in construction and demolition debris collection service as described
771 in Appendix A.
772 (3) Commercial franchisees providing both commercial service and construction and
773 demolition debris collection service shall pay both fees described in subsections (1)
774 and (2) above, but shall not be required to pay the fees in Appendix A deriving from
775 subsection (2) above for vehicles which are not intended and shall never be used to
776 haul construction and demolition debris.
777 (b) Compensation payments for commercial service shall be due 20 days after the end of
778 each month, accompanied by statements of gross revenues as prescribed by the city's finance

779 department, and shall be paid directly to the city's finance department. Statements and
780 remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if
781 the 20th day falls upon a Saturday, Sunday or federal or state holiday, statements and remittances
782 shall be accepted as timely if postmarked on the next succeeding workday. Compensation
783 payments for construction and demolition debris collection service shall be due on October 15 of
784 each year, and will be accepted as timely if postmarked on or before October 15, or the next
785 succeeding workday if October 15 falls upon a Saturday or Sunday or state or federal holiday.
786 Payments not received by the due date shall be assessed interest at the rate of one percent per
787 month compounded monthly from the due date.

788 (c) All amounts paid shall be subject to confirmation and recomputation by the city. An
789 acceptance of payment shall not be construed as an accord that the amount paid is, in fact, the
790 correct amount, nor shall acceptance of payment be construed as a release of any claim the city
791 may have for further or additional sums payable.

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

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

798 **Sec. 27-81. - Books, records and reporting requirements.**

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

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

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

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

820 **Sec. 27-82. - Application requirements.**

821 (a) Applications for a franchise shall be made to ~~the city manager~~ public works director
822 or designee on such forms and in such manner as prescribed by the city. Application may be
823 made for one or both of the following types of franchise:

824 (1) Commercial limited to collection of garbage and trash from commercially-
825 collected residential dwellings and collection or processing of garbage and trash
826 from commercial generators.
827 (2) Construction and demolition limited to collection and disposal of construction
828 and demolition debris.
829 (b) Application forms will require, at a minimum, the following information and
830 supporting documents.
831 (1) If the applicant is a partnership or corporation, the name(s) and business
832 address(es) of the principal officers and stockholders and other persons having
833 financial or controlling interest in the partnership or corporation; provided,
834 however, that if the corporation is a publicly owned corporation having more than
835 25 shareholders, then only the names and business addresses of the local managing
836 officers shall be required.
837 (2) Criminal convictions, including withheld adjudication and plea of nolo
838 contendere for any felonies of the applicant if an individual, or any person having
839 any controlling interest in a firm, corporation, partnership, association or
840 organization making application, if requested by the ~~city manager~~ public works
841 director or designee.
842 (3) A statement of whether such applicant operates or has operated a solid waste
843 collection business in this or any other state or territory under a franchise, permit or
844 license; and if so, where, and whether such franchise, permit or license has ever
845 been revoked or suspended and the reasons therefor.

846 (4) Proof that corporation is in good standing in the state of corporation, if
847 applicant is a corporation, and, if not a Florida corporation, that applicant is
848 qualified to do business in the State of Florida. If applicant is other than a
849 corporation and is operating under a fictitious name, applicant shall be required to
850 submit information that such fictitious name is registered and held by applicant.
851 (5) A list of the type, number and complete description of all equipment to be
852 used by the applicant for providing service pursuant to this division. The ~~city~~
853 ~~manager~~ public works director or designee may conduct an inspection of all
854 equipment utilized in providing the services as outlined in the franchise to
855 determine that the franchise possesses equipment capable of providing safe and
856 efficient services.
857 (6) The applicant shall maintain in full force and effect insurance as specified
858 herein and shall furnish a comprehensive general liability policy to the city manager
859 or designee or designee and also file with the city manager or designee or designee
860 a certificate of insurance for all policies written in the applicant's name. The
861 applicant shall carry in its own name a policy covering its operations in an amount
862 not less than $200,000.00 per occurrence for bodily injury and $200,000.00 per
863 occurrence for property damage regarding comprehensive general liability. The
864 applicant shall carry in its own name a policy covering its operation in an amount
865 not less than $100,000.00 per person, $200,000.00 per occurrence for bodily injury,
866 and $50,000.00 per occurrence for property damage liability regarding automobile
867 liability insurance. The applicant shall maintain workers compensation as required
868 by Chapter 440, Florida Statutes.

869 (7) The insurance policies shall be filed in the office of city manager or designee
870 or designee and shall remain on file so long as the franchisee operates a franchise.
871 (8) The applicant shall pay the city a nonrefundable application fee, as specified
872 in Appendix A, at the time application is filed.

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

874 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
875 deny a franchise in the case of application for new or renewed franchises, and suspend or revoke
876 a franchise for a specified period of time in the case of previously issued franchises. Just cause
877 shall include but not be limited to a failure to meet the requirements of this article, violation of
878 any of the provisions of this article or any of the ordinances of the city, or the laws of the United
879 States or the state of Florida, the violations of which reflect unfavorably on the fitness of the
880 holder to offer solid waste collection services to the public.

881 (b) Prior to denial, suspension or revocation, the applicant or holder shall be given
882 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
883 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
884 why the franchise should not be denied, revoked or suspended. The notice of ~~intention~~ the
885 proposed action shall be served upon the applicant or franchisee by registered mail or personal
886 service. The hearing shall be held no earlier than 10 days after notice is received by the
887 applicant or registrant. Notice of the final decision of the public works director or designee shall
888 be sent in writing to the applicant or registrant.

889 (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the
890 ~~city manager~~ public works director or designee may appeal the decision to the city ~~commission~~
891 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city

892 clerk ~~of the commission~~ within ten days after the decision of the ~~city manager~~ public works
893 director or designee. The city clerk ~~of the commission~~ shall notify the ~~city manager~~ public works
894 director of the appeal and the ~~city manager~~ public works director or designee shall forthwith
895 transmit to the clerk copies of all papers constituting the record upon which the action appealed
896 is based. ~~The clerk of the commission shall place the appeal on the agenda of the next regularly~~
897 ~~scheduled city commission meeting which is not less than ten days from the date of the filing of~~
898 ~~the appeal.~~ No later than 15 days after the date of filing the appeal, ~~T~~the city ~~commission~~
899 manager or designee shall review the record and decide whether the decision of the ~~city manager~~
900 public works director was based on competent, substantial evidence. ~~It [~~If~~]~~ the ~~commission~~ city
901 manager finds competent, substantial evidence for the ~~city manager~~ public works director's
902 decision, ~~it~~ the city manager will uphold the ~~manager's~~ public works director's decision;
903 otherwise, ~~it~~ the city manager will reverse the ~~manager's~~ public works director's decision. The
904 decision of the city ~~commission~~ manager shall constitute final administrative action.

905 **Sec. 27-84. - Penalties for violation.**

906 Except as otherwise provided, ~~any person violating or failing to comply with any of the~~
907 ~~provisions~~ violations of this division ~~shall~~ may be ~~punished~~ enforced by civil citation if
908 specifically provided for by section 2-339, as provided by section 1-9, by code enforcement
909 proceedings, or the city may seek injunctive relief.

910 **DIVISION 3. – COMMERCIAL RECYCLING**

911 **Sec. 27-85. - Mandatory commercial recycling established.**

912 (a) *Commercial generators*. ~~Beginning January 1, 1997, or such later date as designated by~~
913 ~~the city manager or designee, all~~ All commercial generators ~~and generators of construction and~~
914 ~~demolition debris~~ shall separate designated recycling materials and make them available for

915 recycling. ~~The commercial generator or generator of construction and demolition debris may~~
916 ~~utilize a registrant, which includes a commercial franchisee who has obtained a registration, to~~
917 ~~collect the recycled materials.~~ The commercial generator shall either self-transport the designated
918 recyclable materials or utilize a registrant to collect and transport the designated recyclable
919 materials to a recovered materials processing facility. Failure to separate the designated
920 recyclable materials, except for de minimus amounts as determined by the city manager or
921 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
922 or a solid waste container at point of generation will subject the commercial generator to civil
923 citation as provided in sections 2-336 through 2-339 of this Code and may, in addition, result in a
924 surcharge as provided in subsection (c) below.

925 (b) ~~[~~*Notice of noncompliant status.*~~]~~ Before a civil citation is issued, or a surcharge can
926 be imposed, the commercial generator must be issued a notice advising of its noncompliant
927 status. The notice shall provide a compliance date. If upon subsequent inspection the commercial
928 generator is still not in compliance a civil citation ~~will~~ may be issued.

929 (c) ~~[~~*Separation and collection or special pick-up by city.*~~]~~ If the city undertakes the
930 separation and collection of the designated recycled materials or otherwise performs a special
931 pick-up of garbage or trash because a commercial generator fails to separate the designated
932 recyclable materials, except for de minimus amounts as determined by the city manager or
933 designee, from solid waste loads delivered to a city facility, a facility under contract with the city
934 or a solid waste container at point of generation, the city may have it removed and any expenses
935 incurred will be included as a surcharge in the utility bill of the commercial generator.

936 (d) *Appeal.* A commercial establishment may appeal the imposition of a surcharge to the
937 city manager or designee within 15 calendar days of such imposition. The notice of appeal shall

include all information and grounds the commercial generator wants to be considered by the city manager or designee as to why the surcharge should not be imposed. The city manager or designee shall have 15 calendar days to affirm or abate the surcharge. The determination of the city manager or designee shall be final.

~~(e) Commercially-collected residential. All commercially-collected residential units shall establish a recycling program that includes recycling of all designated recyclable materials and is convenient and accessible to the residents by January 1, 1997.~~

(~~f~~e) *Location of containers.*

(1) All recovered materials shall be placed in an appropriate industry standard container. Where ~~garbage cans~~ carts are used, they shall be placed ~~at the roadside or~~ at such ~~other single~~ collection point(s) as may be agreed to between the registrant and the customer, subject to approval by the city manager. All containers shall be kept in a safe, accessible location as designated or approved by the city and agreed to by the registrant and customer.

(2) Any commercial establishment providing receptacles for collecting and disposing of garbage to the public shall place an equal number of receptacles for collection of designated recyclable materials next to the garbage receptacle. If the commercial establishment is unable to meet the above requirement, the commercial establishment shall cooperate with the city to develop an acceptable alternative plan for the placement of receptacles for designated recyclable materials on the premises, with the city making the final determination based upon volume of recycling materials produced and space for receptacle placement at the commercial establishment.

961 (3) Property owners shall provide commercial establishment tenants with
962 space for commercial service containers for garbage and recycling collection or
963 make reasonable accommodations for shared commercial service containers for
964 garbage and recycling collection in a convenient and nearby location. The
965 commercial service containers should be located such that collection equipment can
966 safely collect waste within the commercial service containers and such that the
967 location of the commercial service containers does not create a health or litter
968 hazard due to the distance from the tenant's commercial establishment. If the
969 property owner is unable to meet the above requirement, the property owner shall
970 cooperate with the city to develop an acceptable alternative plan for the collection
971 of waste from the tenant, with the city making the final determination as to the
972 location of the commercial service container.

973 (~~g~~f) *Maintenance of containers*. If a registrant provides recovered material containers to
974 its customers, the registrant will be responsible for the proper maintenance of the container.
975 Customers that acquire their own containers from any other source are responsible for the proper
976 maintenance of the container, except that damage done by the registrant shall be the
977 responsibility of the registrant; and for ensuring that the container can be serviced by the
978 registrant's equipment.

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

983 (h) *Requirement for a take back program for prescription drugs*. Beginning June 1,
984 2023, all commercial generators distributing or providing prescription medicines or drugs at a
985 retail level shall provide on-site publicly accessible containers for the collection and disposal of
986 prescription medicines or drugs and shall collect, and dispose of or destroy, such drugs in
987 accordance with state and federal law.
988 (i) *Commercially-collected residential recycling*. All commercially-collected residential
989 serviced property owners/developers and their affiliated entities, including but not limited to
990 landlords, management companies, condominium associations, and home owner associations
991 shall establish a recycling program that:
992 (1) includes recycling of all designated recyclable materials;
993 (2) provides an industry standard recovered materials container in a common area
994 on the property that is as convenient and accessible to the residents as garbage
995 collection containers. If the city manager or designee determines the location
996 of recovered materials containers fails to meet this requirement, the city
997 manager shall determine an appropriate location on the property for recycling
998 containers;
999 (3) provides an adequate level of service and capacity of designated recyclable
1000 collection containers based on the number of residents, units, or generation at
1001 the property. If the city manager or designee determines the level of service
1002 and capacity of recycling containers is inadequate, the city manager shall
1003 determine an appropriate level of service and capacity of recycling containers;

1004 (4) prominently posts and maintains one or more signs in common areas where
1005 designated recyclable materials are collected that specify the materials
1006 accepted for recycling;
1007 (5) distributes recycling information in printed or electronic form to each occupant
1008 or unit on the property a) upon commencement of the tenant's lease or unit
1009 sale, b) at least once annually, and c) within fourteen (14) days after any
1010 changes to recycling services on the property; and
1011 (6) by October 1, 2023, provides at least one indoor recycling storage container
1012 per unit of a type and design approved by the City for unit occupants to easily
1013 transport designated recyclable materials to the collection area on the property.
1014 If the occupant owns the unit, the owner of the unit shall supply their own
1015 indoor recycling storage container.
1016 (j) *Commercially-collected residential property lease transition plan.*
1017 (1) Beginning June 1, 2023, commercially-collected residential properties with at
1018 least 200 leased units that are located within the designated area shall submit
1019 to the public works department a plan to divert from the landfill waste stream
1020 usable and functioning household goods, furnishings, and electronics, and
1021 recyclable cardboard resulting from the high volume move-in and move-out
1022 periods that occur April 20 – May 15 and July 20 - August 25 of each year.
1023 Beginning January 1, 2025, commercially-collected residential properties
1024 with at least 50 leased units that are located within the designated area shall
1025 submit to the public works department a plan to divert from the landfill waste
1026 stream usable and functioning household goods, furnishings, and electronics,

1027 and recyclable cardboard resulting from the high volume move-in and move-
1028 out periods that occur April 20 – May 15 and July 20 - August 25 of each
1029 year. The designated area will be described in a map on file in the public
1030 works department, and may be revised from time to time by the public works
1031 director. The plan shall be submitted on a form prepared by the city. At a
1032 minimum the plan must contain:
1033 A. An affirmation that the commercially-collected property will provide
1034 notice to tenants at least one month in advance of the move-out period
1035 that encourages the sale or donation of goods, the location of the
1036 donation collection site, and the availability of free goods at the
1037 donation collection site;
1038 B. The location of the donation collection site; and
1039 C. A plan for protection of the collected goods from adverse weather
1040 conditions (including rain); and
1041 D. Identify the local reuse organization(s) that will accept the donated
1042 goods.
1043 (2) The city shall approve or disapprove the plan within 15 business days of the
1044 plan being submitted and send written notice of the decision to the
1045 commercially-collected residential property. If approved, the proposed plan
1046 shall be implemented no later than 60 days after approval. If the plan is
1047 disapproved, the commercially-collected residential property shall re-submit
1048 the plan no later than 30 days after the date of its disapproval.

1049 (k) *Exemptions*. A commercial generator may request an exemption from the
1050 requirements within Section 27-85(e)(2). The city manager or designee shall grant a request for
1051 an exemption if the commercial generator demonstrates to the satisfaction of the city manager
1052 or designee that the volume of designated recyclable materials generated is de minimus or
1053 space is not available at a given property for additional container placement. Each exemption
1054 request must be completed and submitted using the standardized forms provided by the city.
1055 Commercial generators shall be notified in writing within sixty (60) days of whether their
1056 exemption request is granted or denied.

1057 **Sec. 27-86. - Registration of recovered materials collectors.**

1058 (a) *Registration required*. No person, including a commercial franchisee, shall collect,
1059 transport, convey or process recovered materials in the city without a registration certificate from
1060 the city. Each commercial franchise holder who desires to collect recovered materials as part of
1061 the commercial recycling program shall be granted a registration certificate upon ~~filling out~~
1062 completing an application and providing the necessary documentation. No application fee will be
1063 required until such time as the commercial franchise would have terminated had it not been
1064 extended by subsection 27-79.1. This subsection does not prohibit the city from entering into
1065 an exclusive franchise agreement or issuing exclusive certificates of registration for the
1066 collection of recovered materials from residential properties or commercially-collected
1067 residential properties.

1068 (b) *Application for a recovered material certificate*.

1069 (1) Applications for registration shall be obtained from and returned to the
1070 department of solid waste.

1071 (2) The applicant shall state whether it is a processor, a transporter, or both.

1072 (3) Requested information on the application shall be limited to that information
1073 required by F.S. § 403.7046.
1074 (4) The application must be accompanied by
1075 a. a copy of state certification as required by F.S. § 403.7046;
1076 b. disclosure of ownership as set forth below; and
1077 c. proof of insurance as set forth below.
1078 (c) *Renewal of registration.* The certificate of registration may be valid for five years,
1079 and may be renewed up to two times upon
1080 (1) disclosure of ownership as set forth below;
1081 (2) proof of insurance as set forth below as of the time of renewal; and
1082 (3) proof that the registrant is still providing service to customers.
1083 (d) *Operating requirements for registrants.* Persons collecting, transporting, conveying or
1084 processing recovered materials in the city shall comply with the following operating
1085 requirements:
1086 (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a
1087 notarized statement disclosing the names of its owners, general and limited partners,
1088 or corporate or registered name under which it will conduct its business as
1089 authorized by this article.
1090 (2) *Response to complaint.* Each registrant shall be responsible for responding to
1091 any and all complaints which involve registrant's actions that create a nuisance or
1092 have the potential to create a nuisance. Response shall be within 24 hours of the
1093 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

1094 (3) *Clean-up*. A registrant shall handle recovered materials containers with
1095 reasonable care and return them to the approximate location from which they were
1096 collected. A registrant shall clean up all materials spilled during its collection
1097 operation.
1098 (4) *Emergencies*. A registrant shall not be required to provide collection services
1099 when all appropriate recycling sites are closed or a city emergency or imminent
1100 emergency exists, as determined by the city manager or designee. Collections shall
1101 resume on the instruction of the city manager or designee.
1102 (5) *Non-agency*. A registrant shall not be deemed an agent of the city and shall be
1103 responsible for any losses or damages of any kind arising from its performance or
1104 nonperformance under its registration. The registrant shall defend at its own expense
1105 or reimburse the city for its defense, at the city's option, of any and all claims and
1106 suits brought against the city, its elected or appointed officers, employees, and
1107 agents resulting from the registrant's performance or nonperformance of service
1108 pursuant to the registration.
1109 (6) *Trucks*. A registrant shall use trucks that are capable of preventing spillage or
1110 accidental release of recovered material during transport.
1111 (7) *Insurance*. A registrant shall purchase and maintain the types and amounts of
1112 insurance set forth below from companies authorized to do business in the State of
1113 Florida. The city shall be named as an additional insured on the general liability
1114 insurance if the registrant utilizes city facilities. Failure to maintain insurance shall
1115 result in revocation of registration.

1116 a. General liability insurance - $500,000.00 per occurrence if the registrant
1117 utilizes city facilities.
1118 b. Commercial motor vehicle insurance as required by F.S. Ch. 627.
1119 c. Workers compensation as required by F.S. Ch. 440.
1120 (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense
1121 all local, state and federal franchises, certificates, permits or other authorizations
1122 necessary for the conduct of its operations. A registrant and its employees, officers
1123 and agents shall comply with all relevant local, state, and federal laws, rules and
1124 regulations, orders and mandatory guidelines applying to the collection or
1125 processing services being rendered.
1126 (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be
1127 deemed to be a waiver of any applicable local, state or federal law or regulation,
1128 including but not limited to zoning or planning regulations, with respect to a
1129 recycling operation of any kind, nor shall it create any vested right to own or
1130 operate any type of recycling operation.
1131 (10) *Hours of operation.* A registrant shall make available daily ~~(except Sunday)~~
1132 collection of designated recyclable materials. Collection shall begin no earlier than
1133 6:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday, except
1134 in areas of mixed residential and commercial occupancy where collections shall
1135 begin no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday
1136 through Saturday. Sunday service shall not begin before 8:00 am and shall cease no
1137 later than 9:00 p.m. ~~The city manager or designee may authorize collection on~~
1138 ~~Sunday where special needs of the customer make it necessary.~~

1139 (e) *Separation of residential and commercial materials.* Curbside collection of
1140 designated recyclable materials from commercial generators shall be allowed only with
1141 prior approval of the city manager or designee, when considering a request to provide
1142 curbside collection, the city manager or designee shall consider the following factors:
1143 (1) Accessibility of collection vehicles to property.
1144 (2) Available space for placement of containers.
1145 (3) Predominant use of property.
1146 (4) Safety.
1147 (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered
1148 materials dealer that has been certified by the Florida Department of Environmental
1149 Protection or subsequent responsible agency, and the city.
1150 (g) *Reports.*
1151 (1) The recovered materials registrant shall submit to the city manager or designee
1152 reports as authorized by F.S. § 403.7046, and the regulations promulgated pursuant to
1153 the authority stated in statute.
1154 (2) Within 15 days of changing facilities where recovered materials is being
1155 delivered, recovered materials registrants shall provide the name and location of the
1156 new facilities to the city manager or designee.
1157 **Sec. 27-87. - Revocation of registration.**
1158 (a) Upon a finding of just cause, the ~~city manager~~ public works director or designee shall
1159 deny a registration in the case of application for a new or renewed registration, and suspend or
1160 revoke a registration for a specified period of time in the case of previously issued registration.
1161 Just cause shall be consistent and repeated violation of state or local laws, ordinances, rules, and

1162 regulations relating to the applicant's or registrant's operation; or loss of state certification as a
1163 recovered materials dealer.

1164 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
1165 reasonable notice of the proposed action to be taken and shall have an opportunity to present to
1166 the ~~city manager~~ public works director or designee written and oral evidence at a hearing as to
1167 why the registration should not be denied, revoked or suspended. The notice of ~~intention~~ the
1168 proposed action shall be served upon the applicant or registrant by registered mail or personal
1169 service. The hearing shall be held no earlier than 10 days after notice is received by the
1170 applicant or registrant. Notice of the final decision of the public works director or designee shall
1171 be sent in writing to the applicant or registrant.

1172 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the
1173 ~~city manager~~ public works director or designee may appeal the decision to the city ~~commission~~
1174 manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city
1175 clerk ~~of the commission~~ within ten days after the decision of the ~~city manager~~ public works
1176 director or designee. The city clerk shall inform the ~~city manager~~ public works director of the
1177 appeal, and the ~~city manager~~ public works director or designee shall forthwith transmit to the city
1178 clerk copies of all papers constituting the record upon which the action appealed is based. ~~The~~
1179 ~~clerk shall place the appeal on the agenda of the next regularly scheduled city commission~~
1180 ~~meeting which is not less than ten days from the date of the filing of the appeal.~~ No later than 15
1181 days after the date of filing the appeal, ~~T~~the city ~~commission~~ manager shall review the record
1182 and decide whether the decision of the ~~city manager~~ public works director was based on
1183 competent, substantial evidence. ~~It [If]~~ If the ~~commission~~ city manager finds competent,
1184 substantial evidence for the ~~city manager's~~ public works director's decision, ~~it~~ the city manager

1185 will uphold the ~~manager's~~ public works director's decision; otherwise, ~~it~~ the city manager will
1186 reverse the ~~manager's~~ public works director's decision. The decision of the city ~~commission~~
1187 manager shall constitute final administrative action.

1188 **Sec. 27-88. - Penalties for violation.**

1189 Except as otherwise provided, ~~any person violating or failing to comply with any of the~~
1190 ~~provisions~~ violations of this division ~~shall~~ may be ~~punished~~ enforced by civil citation if
1191 specifically provided for by section 2-339, as provided by section 1-9 of this Code of
1192 Ordinances, by code enforcement proceedings, or the city may seek injunctive relief.

1193 **Section 2**. A new Division 4 within Article III of Chapter 27 of the Gainesville Code of
1194 Ordinances is created to read as set forth below. Division 5 is amended to read as set forth
1195 below. Except as amended herein, the remainder of Chapter 27 remains in full force and effect.

1196 **DIVISION 4. ~~RESERVED.~~ SINGLE-USE PLASTIC AND POLYSTYRENE**
1197 **PRODUCTS.**

1198 **DIVISION 5. ~~PLASTIC STRAWS AND STIRRERS~~ RESERVED.**

1199 **Sec. 27-~~92~~89. - Definitions.**

1200 The following words, terms and phrases, when used in this article, shall have the meanings
1201 ascribed to them in this section, except where the context clearly indicates a different meaning:

1202 *Expanded polystyrene container* means any plate, bowl, cup, container, lid, tray, cooler,
1203 ice chest, and similar items that are made of blown polystyrene and expanded and extruded
1204 foams that are thermoplastic petrochemical materials utilizing a styrene monomer and
1205 manufactured by fusion of polymer spheres (expandable bead foam), injection molding, foam
1206 molding and extrusion-blown molding (extruded foam polystyrene) or any other technique.

1207 ~~*Beverage*~~ *Prepared food provider* means a person or entity that provides food (including
1208 beverages) directly to the consumer, that is ready for immediate consumption without any further
1209 cooking, mixing, preparation, alteration or repackaging regardless of whether such food ~~beverage~~
1210 is provided free of charge or sold, or whether consumption occurs on or off premises, or whether
1211 the food ~~beverage~~ is provided from a building, pushcart, stand or vehicle. Prepared Food
1212 ~~Beverage~~ providers include, but are not limited to, bars, restaurants, cafes, sidewalk cafes,
1213 delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies,
1214 bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

1215 *Single-use plastic food accessory* means any item which is made predominantly of plastic
1216 derived from petroleum polymer or a biologically-based polymer and is provided for one-time
1217 use with prepared food (including beverages), such as utensils, chopsticks, portion cups,
1218 condiment packets, and other similar accessories. This definition excludes items that are
1219 provided to prevent spills and injuries, such as spill plugs, splash sticks, cup lids, cup sleeves and
1220 cup trays.

1221 *Single-use plastic straw* means a ~~device that is~~ disposable tube used for the purpose of
1222 consuming beverages and intended for one-time use, which is made predominantly of plastic
1223 derived from petroleum polymer or a biologically-based polymer.

1224 *Single-use plastic stirrer* means a device that is used to mix beverages and intended for
1225 one-time use, and made predominantly of plastic derived from a petroleum polymer or a
1226 biologically based polymer.

1227 **Sec. 27-~~93~~90. - Prohibition on single-use plastic straws and single-use plastic stirrers.**

1228 (a) ~~Beverage~~ Prepared food providers shall not sell, use, offer for sale or use, or provide
1229 to any person a single-use plastic straw or single-use plastic stirrer.

1230 (1) Exceptions: Although the discontinuation of the use of single-use plastic straws
1231 and single-use plastic stirrers is strongly encouraged, this article shall not apply to
1232 the sale or use of single-use plastic straws or single-use plastic stirrers as follows:
1233 a. Pre-packaged beverages with a single-use plastic straw or single-use plastic
1234 stirrer that are prepared and packaged outside the city and are not altered,
1235 packaged or repackaged within the city.
1236 b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers
1237 that are offered for retail sale to a consumer for personal use, that are prepared
1238 and packaged outside the city and are not altered, packaged or repackaged
1239 within the city.
1240 c. By medical or dental facilities.
1241 d. By hospitals.
1242 e. By nursing homes or assisted living facilities.
1243 f. By any disabled person that requires or relies on same to consume beverages
1244 and/or food supplements.
1245 **Sec. 27-91. – Single-Use Plastic Food Accessories available upon request.**
1246 Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out
1247 or delivery, unless the single-use food accessory is specifically requested by the customer or is
1248 provided at a customer self-serve station.
1249 **Sec. 27-92. - Prohibition on use of expanded polystyrene containers on city property or city**
1250 **right-of-way.**
1251 Any person or entity that is required to obtain a permit, use agreement, or other authorization or
1252 approval to use city property or city right-of-way pursuant to Chapter 18, Article II. Park

1253 Regulations; Chapter 19 Peddlers, Solicitors and Canvassers; and Chapter 30, Article V. Use
1254 Standards after the effective date of this ordinance is prohibited from using expanded
1255 polystyrene containers for the permitted activity on city property or city right-of-way. This
1256 prohibition excludes the distribution of any prepackaged food that is filled and sealed in an
1257 expanded polystyrene container prior to receipt by the person or entity and it excludes raw meat
1258 or seafood that is stored in an expanded polystyrene container and sold from a refrigerated
1259 display or storage case.

1260 **Sec. 27-93. Prohibition on intentional release outdoors of plastic confetti, glitter and**
1261 **balloons.**

1262 All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or
1263 balloons. Consistent with Section 379.233, Florida Statutes, the following balloon releases are
1264 exempt from the above prohibition: (a) balloons released by a person on behalf of a
1265 governmental agency or pursuant to a governmental contract for scientific or meteorological
1266 purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either
1267 biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation
1268 Commission, and which are closed by a hand-tied knot in the stem of the balloon without string,
1269 ribbon, or other attachments. The party responsible for the release shall make available evidence
1270 of the biodegradability or photodegradability of said balloons in the form of a certificate
1271 executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a
1272 violation of this act.

1273 **Sec. 27-94. - Enforcement; penalties; injunctive relief.**

1274 The city may enforce this ~~article~~ division by civil citation in accordance with chapter 2, article V,
1275 division 6. In addition, persons who are not in conformity with these requirements shall be
1276 subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

1277 **Section 3.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
1278 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
1279 and effect.

1280 **Sec. 2-339. – Applicable codes and ordinances.**

1281 The following ordinances are enforceable by the procedures described in this division:

27-73	Solid waste violations: ~~except (4), (8) and (9)~~ (1)-(7), (9)-(11), (17), (18), and (23)	I	$250.00
27-73	Solid waste violations: (8)	III	$150.00
27-73	Solid waste violations: (12)-(16) and (19)-(22)	I	$50.00
27-75	Commercial service violations	III	$100.00
27-76	Residential service violations	I	$50.00
~~27-76(b)(1)b~~	~~Improper use of cart~~	~~I~~	~~$250.00~~
27-79~~(a) and (f)~~	Commercial franchise violations	~~IV~~ III	$200.00
27-85~~(a)~~	~~Failure to separate designated recyclable materials, except for de minimus amounts, from solid waste loads~~ Commercial recycling violations	~~II~~ I	$125.00

27-86	Recovered materials registration violations	III	$200.00
~~27-93~~ 27-90	Single-use plastic straws and single-use plastic stirrers	~~II~~ I	~~$250.00~~ $150.00
27-91	Single-use plastic food accessories	I	$150.00
27-92	Expanded polystyrene containers on city property	I	$125.00
27-93	Release of plastic confetti, glitter and balloons	I	$250.00

Section 4. It is the intention of the City Commission that the provisions of Sections 1, 2, and 3 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 5. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 6. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 7. This ordinance shall become effective immediately upon adoption; however, to allow time for education and public awareness of these new restrictions and prohibitions, citations for violations of Secs. 27-91 and 27-93 will not be issued until after September 1, 2022.

PASSED AND ADOPTED THIS 2nd day of June, 2022.

LAUREN POE
MAYOR

ATTEST:

OMICHELE D. GAINEY
CITY CLERK

Approved as to form and legality

DANIEL M. NEE
INTERIM CITY ATTORNEY

This ordinance passed on first reading this 5th day of May, 2022.

This ordinance passed on second reading this 2nd day of June, 2022.