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ORDINANCE NO. 210626

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by creating Division 7, titled “Food Diversion” within Article III of Chapter 27; requiring certain food oriented commercial establishments to follow a food waste diversion hierarchy; providing for 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.

15 **WHEREAS**, the City Commission finds that it is desirable to require certain commercial
16 generators who provide food for consumption to divert food and food waste to beneficial uses,
17 including feeding hungry people, feeding animals, industrial uses, and composting; and

18 **WHEREAS**, the City Commission finds that this Ordinance is necessary to achieve food
19 waste reduction, reduce methane in landfills, and increase composting; and

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

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

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

28 **Section 1.** The Code of Ordinance of Gainesville, Florida is hereby amended by adding
29 a Division 7 within Article III of Chapter 27, which division reads as follows. Except as
30 amended herein, the remainder of Chapter 27 remains in full force and effect.

DIVISION 7. – FOOD DIVERSION

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32 **Sec. 27-95.4 - Mandatory commercial food waste diversion established.**

33 (a) Beginning on the dates listed below, the following commercial generators shall divert
34 food or food waste from the waste stream unless they are granted an exemption:

35 (1) By January 1, 2023, food retailers that occupy at least 25,000 square feet, including
36 but not limited to grocery stores, convenience stores, meat markets, poultry
37 markets, fish and related aquatic food markets, and produce markets.

38 (2) By January 1, 2024, food service establishments that occupy at least 4,500 square
39 feet, businesses with a commercial kitchen(s) where the kitchen(s) occupies at least
40 1,000 square feet, businesses engaged in selling food to other businesses, food
41 manufacturers (excluding food service establishments) engaged in processing or
42 fabricating food products from raw materials for sale directly to the public, retailers,
43 or wholesalers.

44 Commercial generators which are required to divert food or food waste under this
45 subsection shall divert food or food waste in accordance with the following hierarchy, listed in
46 order of priority:

47 (1) feeding hungry people;

48 (2) feeding animals;

49 (3) providing for industrial uses;

50 (4) composting.

51 (b) Proof of participation in food waste diversion program. Upon request of the city
52 manager or designee, a commercial generator required to divert food or food waste shall provide
53 the following as proof of compliance: 1) receipts for delivery of food to a food bank or other
54 facility that provides food to hungry people or animals, or 2) receipts for delivery of food waste

55 to a food waste processing facility that meets permitting requirements of the State of Florida, or
56 produce proof of a valid and current contract with a food waste registrant.

57 (c) Exemptions. A commercial generator may request an exemption from the requirements
58 of this section. The city manager or designee shall grant a request for an exemption if the
59 commercial generator demonstrates that it is unable to comply due to lack of available service
60 providers or facilities that accept food or food waste. An exemption request must be completed
61 every 6 months and submitted using forms provided by the city. Commercial generators shall
62 be notified in writing within sixty (60) days of whether their exemption request is granted or
63 denied.

64 **Sec. 27-95.5. - Penalties for violation.**

65 Unless specifically stated otherwise, the city shall enforce violations of sections 27-95.4 through
66 code enforcement proceedings, by section 1-9 of this Code of Ordinances, or seek injunctive
67 relief in a court of competent jurisdiction.

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

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

