

PART II - CODE OF ORDINANCES
Chapter 27 - UTILITIES
ARTICLE III. SOLID WASTE DISPOSAL

ARTICLE III. SOLID WASTE DISPOSAL¹

DIVISION 1. GENERALLY

Sec. 27-71. Purpose.

This article is adopted to promote and protect the public health, safety and general welfare of the 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.

(Ord. No. 210129 , § 1, 6-2-22)

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 e 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-, 65-, and 95-gallon sizes, supplied and distributed by the solid waste collector.

Certified recovered materials dealer shall mean a dealer certified as provided in F.S. § 403.7046.

Commercial customer shall mean any person who receives commercial service.

¹Ord. No. 210129 , § 1, adopted June 2, 2022, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 27-71—27-88, 27-92—27-95, pertained to similar subject matter. See Code Comparative Table for complete derivation.

Cross reference(s)—Code enforcement board, § 2-376 et seq.; health and sanitation, Ch. 11.5; recycling centers, § 30-106 et seq.

Commercial establishment shall mean any space used primarily for business activities. Commercial establishment does not include residential properties, even if such residential properties are managed or owned by a commercial entity.

Commercial franchisee shall mean a person who has filed an application with, and received a franchise from, the city to provide one or more of the following services:

- (a) Commercial service;
- (b) Collection of construction and demolition debris.

Commercial generator shall mean a person who is eligible to receive commercial service under this article and who is the point of origination of solid waste or recovered materials.

Commercial service shall mean pickup of garbage and trash, but excluding hazardous waste, biomedical waste and yard waste, provided by a commercial franchisee to one of the following:

- (1) A licensed mobile home park with five or more dwelling units;
- (2) Multi-family residences with five or more dwelling units under one common roof;
- (3) Any residential property that has opted-out of residential service under the terms of this article and is eligible to receive commercially-collected residential service, or residential property that is required to receive commercially-collected residential services;
- (4) Business, commercial or industrial enterprises of all types licensed to do business in the city.

Commercial service container shall mean an industry-standard container constructed of non-absorbent material, with or without a cover, made for mechanized pickup. It includes dumpsters and carts.

Commercially-collected residential service shall mean the collection of solid waste, other than hazardous waste and bio-medical waste, provided to persons occupying residential dwelling units in a development where one or more of the following criteria exists:

- (1) The development has at least one building with five or more dwelling units;
- (2) The development has a building with two to four dwelling units which has been allowed by the city to opt-out of curbside residential service;
- (3) Separate developments that share common infrastructure (such as a shared parking lot). ownership, property management or home owner association but have four or less units per building when the city manager or designee has determined commercially-collected residential service will improve aesthetics or efficiency of collection.

Compactor shall mean any container that has a compaction mechanism.

Construction and demolition debris shall mean materials generally considered to be not water soluble nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure will cause it to be classified as other than construction and demolition debris.

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

Curbside shall mean the designated physical location for the placement of solid waste accumulations intended for residential service collection and disposal. This designated location shall be as near as possible to the

traveled streets or alley normally serviced by the contractor's collection vehicles, but in no case upon such street or alley. The intention of a curbside designation is to allow collection by waste control personnel in a rapid manner with walking or reaching minimized. In all cases, the city manager or designee shall have the authority to approve or specify the precise location for such curbside placement.

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

De minimus quantity shall mean:

- (a) No more than 15 percent by volume of total designated recyclable materials, regardless of type, in a solid waste load delivered to a city facility or a facility under contract with the city or in a solid waste container at point of generation; or
- (b) No more than ten percent by volume of non-recovered materials in a recovered material container at the point of generation; or
- (c) No more than 15 percent by volume of food waste in a solid waste load delivered to a city facility or a facility under contract with the city or in a solid waste container at point of generation.

Designated recyclable materials shall mean those recyclable materials that are designated by the city manager or designee as potential recovered materials.

Dumpster shall mean a large container for waste which is one cubic yard in size or greater designed for mechanized pickup into a specially equipped truck for collection.

Dwelling unit shall mean a living unit, house, mobile home, apartment or building used primarily for human habitation.

Food shall mean nutritious substances eaten or consumed to sustain human or animal growth and repair vital processes and to furnish energy.

Food service establishment means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include schools, institutions, fraternal organizations, private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, cottage food operations, and supply vehicles, nor does the term include a research and development test kitchen limited to the use of employees and which is not open to the general public.

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

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

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

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

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

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

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

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

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

Registrant shall mean:

- (a) A person who has made application with the city to collect, transport, convey or process recovered materials in the city and has subsequently received a registration certificate from the city; or
- (b) A person who has made application with the city to collect, transport, convey or process food waste in the city and has subsequently received a registration certificate from the city.

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

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

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

Source separated shall describe those recovered materials separated from solid waste where the recovered materials and solid waste are generated.

Trash shall mean nonputrescible debris that is generated by households, businesses, and institutions.

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

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-73. Prohibited acts.

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

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- (1) To place or cause to be placed any garbage, trash, recovered materials, or food waste upon the property of another.
 - (2) To collect or transport solid waste for hire or for remuneration or any other form of consideration without first being granted a commercial franchise except as follows:
 - a. Commercial generators transporting their own solid waste; and
 - b. Persons transporting their own solid waste generated by their own dwelling unit or establishment to an appropriate disposal site.
 - (3) To collect or transport construction and demolition debris for hire or for remuneration or any other form of consideration without first being granted a construction and demolition debris franchise except as follows:
 - a. Commercial generators transporting their own debris;
 - b. Persons secondarily providing removal of debris created as a result of other primary services performed by those persons as described in subsection (11) below. Subcontractors who provide primarily collection or transport services shall not qualify for this exemption.
 - (4) To collect, process, convey or transport recovered materials in the city without having registered with the city, except as follows:
 - a. Persons whose primary business is freight transport that may involve the intermittent transport of recovered materials;
 - b. Commercial generators transporting their own recovered materials; and
 - c. Persons transporting their own recovered materials generated by their own dwelling unit or establishment to an appropriate recycling site.
 - (5) To collect recovered materials from a solid waste container used by a consumer or commercial customer receiving service from a franchisee, franchise or registrant, after the consumer or commercial customer places the container and recovered materials at the curb or designated area for collection, except as permitted by the city on an emergency interim basis as part of the city's recycling program when the city manager or designee determines that it is necessary to protect public health, safety or welfare.
 - (6) To allow solid waste, recovered materials, or food waste to spill, blow or drop from any vehicle on any road or to transport any solid waste, recovered material, or food waste over any public road unless the solid waste, recovered material, or food waste is securely tied or covered so as to prevent leakage or spillage onto the road.
 - (7) To place or store solid waste, recovered materials, or food waste on any property for a period in excess of one week, unless it is securely contained or covered.
 - (8) To deposit or dispose of any garbage, trash, or recovered materials on the paved or traveled portion of any public street, or any alleyway, sidewalk, bike path, stream, ditch, river, pond, bay, creek, park, other right-of-way or public place in the city except at areas as may be designated by the city.
 - (9) To deposit, dump or dispose of any garbage or trash at, upon or in any incinerator or landfill within the city without first obtaining the permission of the custodian thereof.
 - (10) To burn any garbage or trash within the city, except at designated incinerators or landfills, without first obtaining a permit from the city.

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- (11) To produce or accumulate any construction and demolition debris, tree branches or similar debris while acting in the capacity of a contractor (such as a tree surgeon, landscaper or building contractor), without removal of the same to a designated disposal area.
 - (12) To allow any scattered garbage, trash, recovered materials, or food waste to remain at or near the curbside, or to fail to remove any windblown or animal scattered garbage, trash, recovered materials, or food waste from a public area and right-of-way which have blown or otherwise scattered from the person's dwelling unit curbside collection point.
 - (13) To place any solid waste, recovered materials, or food waste out for collection by any alley service drive, easement or right-of-way not serviced by collection trucks.
 - (14) To place any solid waste, recovered materials, or food waste out for collection adjacent to the street if collection trucks service the area from an established alley.
 - (15) To place any solid waste, recovered materials, or food waste in an underground container for pickup.
 - (16) To do any act prohibited or to fail to do any act required by the solid waste regulations of the city.
 - (17) To deposit any hazardous waste as defined in F.S. § 403.703, in any cart or commercial service container.
 - (18) To place or cause to be placed any garbage, trash, recovered materials, food waste, or other solid waste in the cart or commercial service container belonging to another without proper authority.
 - (19) To remove any materials, without proper authority, from any container belonging to another which contains materials set out for recycling.
 - (20) To mix yard waste with normal solid waste loads, whether for residential or commercial service.
 - (21) To leave uncovered a garbage, recovered material, or food waste container that has a lid or fitted cover.
 - (22) To collect garbage, trash, recovered material, or food waste in a container without a properly sized or fitted cover, except for residential curbside recycling bins designed to be open-topped containers.
 - (23) To collect, process, convey or transport food waste in the city without having registered with the city, except as follows:
 - a. Commercial generators transporting their own food waste; and
 - b. Persons transporting their own food waste generated by their own dwelling unit or establishment to a food waste processing site that meets the permitting requirements of the State of Florida.

(Ord. No. 210129 , § 1, 6-2-22)

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

- (a) The city manager or designee shall have the authority to make regulations concerning the days of collection, type and location of collection containers and other such matters pertaining to the storage, collection, conveyance and disposal as necessary and to change or modify the same after reasonable notice to affected persons.
- (b) Except as provided otherwise, provisions of this division may be enforced by civil citation if specifically provided for by section 2-339, enforced as provided by section 1-9, enforced by code enforcement proceedings, or the city may seek injunctive relief.

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- (c) The city manager or designee may enforce regulations regarding storage, collection, conveyance and disposal of all solid waste, recovered materials, and food waste generated within the city, including accumulations of same that may be in violation of this article or other solid waste regulations.
 - (d) If a notification of violation was provided and correction of the violation was not made in the time specified by the notice, the city is hereby authorized to collect and dispose of the material causing the violation and to bill the customer or owner of record of the property for the cost of providing this additional collection and disposal service.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-75. Commercial service and commercially-collected residential service.

- (a) *Provided.* Commercial service shall be provided by collectors authorized to provide such service under a franchise with the city to persons that do not qualify to receive residential service. Collection of designated recyclable materials shall be provided by registrants, including franchisees who are registrants.
- (b) *Collection frequency and method.* Each commercial generator or commercially-collected residential service customer shall enter into an agreement with a franchisee of the city for the frequency and method of garbage collection except where: 1) landlords provide service through a franchisee, or 2) commercial generators reach a dumpster sharing arrangement with an adjacent generator or a generator whose shared dumpster is within 500 feet (or further if approved by the city manager or designee) of each commercial generator's service door and one of the generators has an agreement with a franchisee. If a commercial generator has a dumpster sharing arrangement, proof of such an arrangement shall be submitted to the city upon request. Except as specifically provided below, such service shall be received no less than one time per week with no exception for holidays, except that collection service scheduled to occur on a holiday may be rescheduled with written notice to the customer as long as minimum frequency is met. Collection service provided to compactors is exempt from this minimum frequency. Commercially-collected residential service not serviced by a compacting dumpster shall receive a minimum of twice per week service. The following commercial establishments not serviced by a compacting dumpster shall not let food waste remain in a commercial service container for more than two consecutive working days: 1) any establishment licensed to sell alcohol, beer, or wine for consumption on premises; 2) grocery stores selling fresh produce, raw meat, and packaged food primarily for consumption off premises; and 3) food service establishments. When necessary to protect the public health or to enforce the purpose of this article, the city manager or designee shall have the authority to stipulate the frequency of collection or require the implementation of a plan to eliminate the hazard caused by excess accumulation of waste. Service shall consist of the mechanical dumping of commercial containers capable of being unloaded by proper equipment; or a manual hand service dumping of containers located at agreed upon sites upon the property; or other levels of service as may be required or agreed to. If the franchisee fails to perform collection according to the contract, the customer shall have 30 days from the first such failure to enter into an agreement with another franchisee before being cited for violation of this subsection.
- (c) *Preparation and storage.* Collection containers shall be drained of free liquids prior to accumulation for collection. Storage areas and areas adjacent to the storage area shall be maintained by the customer in a neat, sanitary and sightly manner. Customers are responsible for maintaining the accessibility to collection containers or areas. If pickups are missed due to customer's failure to maintain accessibility, and unsanitary or unsightly conditions result, the customer shall be in violation of this article. All collection containers that are to be picked up by collection trucks must be approved by the city as meeting acceptable standards established by the city. Readily apparent damage to storage areas or container enclosures, normal wear and tear excepted, caused by the collector driver shall be reported by the driver to the customer prior to leaving the collection area if the business or management office is open and if not, by radio to the contractor's office, and personnel from the office will then contact the customer at the earliest possible time.

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- (d) *Commercial service containers.* The following commercial service container standards are guidelines under which the owners of containers, as well as the lessees of containers, will conform in order to ensure a healthy and aesthetically pleasing environment for the residents and visitors of the city:
- (1) Each container shall be kept painted in good condition at all times, unless the container is made of aluminum, stainless steel, plastic or other similar materials that do not readily accept painting.
 - (2) Every commercial service container shall be clearly marked with the following information and comply with the following standards:
 - a. A serial or property control number on the front or side of the commercial service container;
 - b. By October 1, 2023, every commercial service container, except for construction and demolition debris collection containers, shall follow the city's approved color and educational labeling format as set forth in ordinance and regulations maintained on file with the solid waste division.
 - (3) Every recovered materials commercial service container shall be clearly and conspicuously labeled across the front of a dumpster or the lid of a cart, as applicable, with the following information:
 - a. "RECYCLING" "RECYCLING ONLY" or "RECYCLE HERE".
 - b. "NO GARBAGE".
 - c. List of designated recyclable materials accepted in that container, such as "CARDBOARD ONLY," that is texted-based, image-based or a combination of text and images.
 - d. Educational labeling shall be:
 1. Clearly and conspicuously placed on and consist of at least 25 percent of the area of the front loading side of dumpsters or cart lids;
 2. Printed in both the English and Spanish language.
 - (4) Every organic materials commercial service container shall be clearly and conspicuously labeled across the front of a dumpster or the lid of a cart, as applicable, with the following information:
 - a. "YARD WASTE ONLY", "COMPOST ONLY" or "FOOD WASTE ONLY".
 - b. "NO GARBAGE".
 - c. List of organic materials accepted in that container that is texted-based, image-based or a combination of text and images.
 - d. Educational labeling shall be:
 1. Clearly and conspicuously placed on and consist of at least 25 percent of the area of the front loading side of dumpsters or cart lids;
 2. Printed in both the English and Spanish language.
 - (5) Each container 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.
 - (6) All necessary containers 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. 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 residents and visitors, or cleanliness of the container site or adjacent community.

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- (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, 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.
- (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.
- (Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-76. Residential service.

- (a) *Provided.* Residential service shall consist of curbside collection of all garbage, trash, designed recyclable materials, and an optional service of backyard collection of garbage, trash, and designated recyclable materials.
- (b) *Preparation, storage, placement for collection.*
- (1) *Garbage:*
- 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 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 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 collection containers in any location or at any times not provided for in this subsection. Garbage and 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 trash in containers other than the assigned cart or pre-paid garbage disposal bags will be in violation of this article.

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- 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 waste.* Yard waste that is properly bundled or containerized in such manner to enable one person to lift the yard waste in a single lifting movement to place same in the compaction truck, and which bundles or containers do not exceed 40 pounds in weight and five feet in length, will be collected at curb or roadside. If tree or shrubbery trimmings are not containerized they may be placed at curbside in a compact pile not containing any items exceeding 40 pounds in weight and five feet in length and will be picked up. Grass, leaves and pine straw must be containerized by either using disposable or reusable containers, and will be collected if properly placed for collection at curb or roadside. Non-disposable or reusable containers intended not to be picked up by the collectors shall be clearly and appropriately identified. Concrete, dirt, bricks, appliances, furniture or similar items are not considered yard waste, and will not be collected except by special service as described in section 27-77.
- (3) *Recycling containers.* Each dwelling unit shall be provided a container for the purpose of storage and disposal of designated recyclable materials. Designated recyclable materials that meet the requirements set forth by the city manager or designee shall be collected from curb or roadside. Designated recyclable materials not fitting in the bin may be placed in non-disposable containers or paper bags and will be collected at curb or roadside.
- (c) *Responsibility for scattered garbage or trash.* Customers are responsible for the cleanup from bags torn or cans spilled by animals, or otherwise spilled through no fault of the collectors. Collectors are not required to sweep, fork, shovel or otherwise clean up trash or garbage that has become scattered or is otherwise not readily picked up and placed in the compaction truck, including spillage resulting from overloaded containers.
- (d) *Backyard option and service fee exception.* The residential service program will allow customers the option of requesting backyard collection. (This does not include yard waste.) Such requests must be made in writing to the city manager or designee 30 days in advance of the start of service and once requested, such service and associated fees shall remain in effect for a minimum of six months. Service charges for backyard service as specified in the schedule set out in Appendix A may be waived and the uniform curbside service charge applied where all occupants of the dwelling unit are physically unable to transport their cart and bin to the curb. Customers desiring backyard service at the curbside rate must be certified as to the necessity for this service by the city manager or designee who may impose such reasonable conditions as may be required for such service and certification.
- (e) *Service charges.* In order to cover the direct cost, including but not limited to inspecting, billing, collecting, handling, hauling and disposal of solid waste, yard waste and designated recyclable materials, and indirect cost, including but not limited to administration, accounting, personnel, purchasing, legal and other staff or departmental services, service charges in accordance with the schedule set out in Appendix A shall be paid monthly to the city, which charge shall be included on the regular monthly statement for utility service.
- (f) *Residential service exclusion.*

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- (1) Owners of buildings containing two to four residential dwelling units may petition the city to be excluded from residential service and allowed to contract for commercially-collected residential service.
 - (2) Petitions for exclusion shall be made to the city manager or designee.
 - (3) Petitions shall be made on city-provided forms, and shall contain the following information:
 - a. Applicant's name.
 - b. Address of the property proposed to be excluded and number of dwelling units.
 - c. A copy of the proposed service agreement between the applicant and a franchised commercial provider, including the level and type of services to be provided and the number of dwelling units to be served.
 - (4) Upon receipt of a properly executed application and verification of the supporting documentation, the city manager or designee shall decide whether to grant the exclusion based on the following criteria:
 - a. Collection history (whether commercial or residential).
 - b. Accessibility of collection vehicles to property.
 - c. Available space for placement of carts.
 - d. Predominant use of property.
 - e. Safety.
 - f. Level of service requested by residents.
 - (5) The city manager or designee shall notify the applicant in writing of the decision.
 - (6) If the exclusion is approved, it shall be effective until terminated. An exclusion may be terminated by the city manager or designee or designee, or at the request of the property owner, due to changes in the contract between the city and its solid waste collector or change in circumstances concerning the property.
 - (7) Regardless of whether owners of a building petition the city for a residential service exclusion, the city manager or designee may require separate developments that share common infrastructure (such as a shared parking lot), ownership, property management, or home owner association but have four or less units per building to have commercially-collected residential service consisting of a dumpster when the city manager or designee has determined collection by dumpster will improve aesthetics of the neighborhood or efficiency of collection.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-77. Special service.

- (a) *Described.* Any waste which, by reason of its bulk, shape or weight, cannot be placed in a container or bundled, or which exceeds the size and weight limitations of any section of this article, will be collected and disposed of by the contractor on an on-call basis.
- (b) *Scheduling and rates.* Special collection will be scheduled at the earliest reasonable time by the contractor. The fee for special service collection and disposal will be arranged between the customer and the contractor. The contractor will bill directly for such services and collect a reasonable fee agreed to jointly by the contractor and the customer prior to the work being performed.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-78. Reserved.

***DIVISION 2. COMMERCIAL SERVICE AND CONSTRUCTION AND DEMOLITION
DEBRIS FRANCHISE***

Sec. 27-79. General provisions.

- (a) It shall be unlawful to commence or engage in the business of providing containers 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 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. Sunday service shall not begin before 8:00 a.m. and shall cease no later than 9:00 p.m.
 - (2) In the event of an emergency, a franchisee may collect at times not allowed by this section, provided the city manager grants prior approval, to be later evidenced by a written memorandum. If no written memorandum is obtained, there shall be a presumption that the franchisee had not obtained prior approval. All written memoranda issued shall be retained on file by the solid waste division and made available to the public for inspection.
- (f) Franchisee shall not be relieved of the obligation to promptly comply with any provision of the franchise by failure of the city to enforce compliance with the franchise.
- (g) The franchise granted hereunder may be exclusive. Any exclusive franchise granted by the city shall be selected through a competitive procurement process. The city reserves the right to grant similar rights or franchises to more than one person or corporation as well as the right in its own name to use its streets for purposes similar to or different from those allowed to franchisees hereunder.
- (h) If a franchisee fails to perform its contract with any customer for longer than two weeks, the city may perform the work using its own equipment or assign the work to another franchisee, who shall be entitled to receive the revenue from the customer for work performed that would have gone to the defaulting franchisee.
- (i) The franchisee shall submit to any load inspection program that the city may reasonably devise.

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- (j) Yard waste from a commercial generator or customer shall be collected separately from other solid waste. Each commercial franchisee shall inform all of its commercial customers of this requirement.
 - (k) A commercial franchisee shall respond to and, if feasible, resolve all complaints received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00 noon the next day. An emergency telephone number where the commercial franchisee can be reached shall be given to the city manager or designee.
 - (l) A commercial franchisee shall handle commercial service containers with reasonable care and return them to the approximate location from which they were collected. A commercial franchisee shall clean up all solid waste spilled during the collection operation.
 - (m) A commercial franchisee shall not be required to provide collection services when all appropriate disposal sites are closed or an emergency or imminent emergency exists, as determined by the city manager or designee. Collections shall resume on the instruction of the city manager or designee.
 - (n) A commercial franchisee shall not be deemed to be an agent of the city and shall be responsible for any losses or damages of any kind arising from its performance or nonperformance under its franchise. The franchisee shall defend at its own expense or reimburse the city for its defense, at the city's option, on any and all claims and suits brought against the city, its elected or appointed officers, employees, and agents resulting from the franchisee's performance or nonperformance of service pursuant to the franchise.
 - (o) Each commercial franchisee shall report to the city by December 15 of each year the percentage participation of its clients in commercial recycling and the amount of recovered material collected as a percentage of total solid waste collected from its customers for the year ending September 30.
 - (p) Each franchisee must provide the city with the location of the disposal site it uses for construction and demolition debris.
 - (q) In order to ensure that the franchisee provides a quality level of solid waste and recycling collection services, the following standards and fines are set:
 - (1) All complaints received by the city and reported to the franchisee shall be promptly resolved. Any complaint received by the franchisee shall be entered on a form approved by the city. All complaints received during the business day shall be transmitted on the approved form by 5:00 p.m. each business day. Any complaint received before noon shall be resolved the same business day. All other complaints shall be resolved by the end of the next business day.
 - (2) In the event legitimate complaints shall exceed two percent of the total customers served by the franchisee during any city fiscal year, or 0.5 percent of the total customers serviced by the franchisee during any calendar month, the city may seek fines for the following violation of this article, on a per incident basis, when committed by the franchisee:
 - a. Commingling solid waste with yard waste and/or designated recyclable materials.
 - b. Failure to replace damaged container within seven days of notification (48 hours for commercially-collected residential customers).
 - c. Throwing of garbage cans or recycling containers.
 - d. Failure to transmit commercial complaint forms as specified in this subsection.
 - 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.

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- 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.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-79.1. Term of franchise.

Any non-exclusive-franchise issued shall be by application. The term of any nonexclusive 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-exclusive franchises will be month to month instead of one year. If the city issues an exclusive franchise, the term of the exclusive franchise agreement shall be as set forth in the agreement.

(Ord. No. 200413 , § 2, 1-20-22; Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-80. Franchise fees.

- (a) *Amount of fee.*
 - (1) The commercial franchisee providing commercial service shall pay as compensation to the city, for the rights and benefits granted hereunder, a monthly fee as described in Appendix A. For purposes of the calculation stated as Appendix A, gross revenues shall consist of all revenues from the sale or lease of containers, all revenues from garbage and trash collection services, all disposal billed, late fees, bad debt recoveries and other fees collected from customers, with no deductions except for bad debts actually written off.
 - (2) The commercial franchisee providing construction and demolition debris collection service shall pay as compensation to the city, for the rights and benefits granted hereunder, an annual fee calculated based on all vehicles owned, leased, or otherwise used in construction and demolition debris collection service as described in Appendix A.
 - (3) Commercial franchisees providing both commercial service and construction and demolition debris collection service shall pay both fees described in subsections (1) and (2) above, but shall not be required to pay the fees in Appendix A deriving from subsection (2) above for vehicles which are not intended and shall never be used to haul construction and demolition debris.
- (b) Compensation payments for commercial service shall be due 20 days after the end of each month, accompanied by statements of gross revenues as prescribed by the city's finance department, and shall be

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

- (c) All amounts paid shall be subject to confirmation and recomputation by the city. An acceptance of payment shall not be construed as an accord that the amount paid is, in fact, the correct amount, nor shall acceptance of payment be construed as a release of any claim the city may have for further or additional sums payable.
- (d) Billing maneuvers that have the effect of reducing or avoiding the payment of franchise fees are expressly prohibited and will be cause for termination of the franchise, as well as punishment as provided by section 1-9.
- (e) Payment of this franchise fee shall not exempt the commercial franchisee from the payment of any other license fee, tax or charge on the business, occupation, property or income of the franchisee that may be imposed by the city.

(Ord. No. 210129 , § 1, 6-2-22)

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

- (a) The city shall have the right to review all records maintained by a franchise providing commercial service concerning its franchise on 30 days' written notice.
- (b) Each commercial franchisee providing commercial service shall file written monthly reports within 30 days after the end of each month with the city manager or designee. The report shall contain an accurate statement of all receipts under the franchise from all sources, the number of accounts by service level, the quantities of garbage and trash collected and the number of routes for garbage and trash collection.
- (c) Each commercial franchisee providing commercial service shall file an annual report including a schedule of total gross revenues as defined in section 27-80(a). This annual report shall be examined by an independent certified public accountant ("auditor") to certify that the computation of gross revenue used to calculate franchise fees remitted is in accordance with the terms of the franchise. The auditor's report shall state that the examination was performed in accordance with professional standards established by the AICPA and shall be filed with the city manager or designee within 120 days of the franchisee's year end.
- (d) Each commercial franchisee shall submit by September 1 of each year an updated list of the type, number and complete description of all equipment to be used for providing service pursuant to this division. Vehicles placed into service since the preceding September 1 shall have the in-service dates noted, and vehicles no longer in service shall have the retirement dates noted. Commercial and demolition debris collection service franchisees will be invoiced for all net increases in vehicles operating during the prior year on a prorated basis, as well as invoiced for vehicles intended to be operated during the coming year.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-82. Application requirements.

- (a) Applications for a franchise shall be made to public works director or designee on such forms and in such manner as prescribed by the city. Application may be made for one or both of the following types of franchise:
 - (1) Commercial limited to collection of garbage and trash from commercially-collected residential dwellings and collection or processing of garbage and trash from commercial generators.
 - (2) Construction and demolition limited to collection and disposal of construction and demolition debris.
- (b) Application forms will require, at a minimum, the following information and supporting documents:
 - (1) If the applicant is a partnership or corporation, the name(s) and business address(es) of the principal officers and stockholders and other persons having financial or controlling interest in the partnership or corporation; provided, however, that if the corporation is a publicly owned corporation having more than 25 shareholders, then only the names and business addresses of the local managing officers shall be required.
 - (2) Criminal convictions, including withheld adjudication and plea of nolo contendere for any felonies of the applicant if an individual, or any person having any controlling interest in a firm, corporation, partnership, association or organization making application, if requested by the public works director or designee.
 - (3) A statement of whether such applicant operates or has operated a solid waste collection business in this or any other state or territory under a franchise, permit or license; and if so, where, and whether such franchise, permit or license has ever been revoked or suspended and the reasons therefor.
 - (4) Proof that corporation is in good standing in the state of corporation, if applicant is a corporation, and, if not a Florida corporation, that applicant is qualified to do business in the State of Florida. If applicant is other than a corporation and is operating under a fictitious name, applicant shall be required to submit information that such fictitious name is registered and held by applicant.
 - (5) A list of the type, number and complete description of all equipment to be used by the applicant for providing service pursuant to this division. The public works director or designee may conduct an inspection of all equipment utilized in providing the services as outlined in the franchise to determine that the franchise possesses equipment capable of providing safe and efficient services.
 - (6) The applicant shall maintain in full force and effect insurance as specified herein and shall furnish a comprehensive general liability policy to the city manager or designee or designee and also file with the city manager or designee or designee a certificate of insurance for all policies written in the applicant's name. The applicant shall carry in its own name a policy covering its operations in an amount not less than \$200,000.00 per occurrence for bodily injury and \$200,000.00 per occurrence for property damage regarding comprehensive general liability. The applicant shall carry in its own name a policy covering its operation in an amount not less than \$100,000.00 per person, \$200,000.00 per occurrence for bodily injury, and \$50,000.00 per occurrence for property damage liability regarding automobile liability insurance. The applicant shall maintain workers compensation as required by F.S. Ch. 440.
 - (7) The insurance policies shall be filed in the office of city manager or designee or designee and shall remain on file so long as the franchisee operates a franchise.
 - (8) The applicant shall pay the city a nonrefundable application fee, as specified in Appendix A, at the time application is filed.

(Ord. No. 210129 , § 1, 6-2-22)

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

- (a) Upon a finding of just cause, the public works director or designee shall deny a franchise in the case of application for new or renewed franchises, and suspend or revoke a franchise for a specified period of time in the case of previously issued franchises. Just cause shall include but not be limited to a failure to meet the requirements of this article, violation of any of the provisions of this article or any of the ordinances of the city, or the laws of the United States or the State of Florida, the violations of which reflect unfavorably on the fitness of the holder to offer solid waste collection services to the public.
- (b) Prior to denial, suspension or revocation, the applicant or holder shall be given reasonable notice of the proposed action to be taken and shall have an opportunity to present to the public works director or designee written and oral evidence at a hearing as to why the franchise should not be denied, revoked or suspended. The notice of the proposed action shall be served upon the applicant or franchisee by registered mail or personal service. The hearing shall be held no earlier than ten days after notice is received by the applicant or registrant. Notice of the final decision of the public works director or designee shall be sent in writing to the applicant or registrant.
- (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the public works director or designee may appeal the decision to the city manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city clerk within ten days after the decision of the public works director or designee. The city clerk shall notify the public works director of the appeal and the public works director or designee shall forthwith transmit to the clerk copies of all papers constituting the record upon which the action appealed is based. No later than 15 days after the date of filing the appeal, the city manager or designee shall review the record and decide whether the decision of the public works director was based on competent, substantial evidence. If the city manager finds competent, substantial evidence for the public works director's decision, the city manager will uphold the public works director's decision; otherwise, the city manager will reverse the public works director's decision. The decision of the city manager shall constitute final administrative action.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-84. Penalties for violation.

Except as otherwise provided, violations of this division may be enforced by civil citation if specifically provided for by section 2-339, as provided by section 1-9, by code enforcement proceedings, or the city may seek injunctive relief.

(Ord. No. 210129 , § 1, 6-2-22)

DIVISION 3. COMMERCIAL RECYCLING

Sec. 27-85. Mandatory commercial recycling established.

- (a) *Commercial generators.* All commercial generators shall separate designated recycling materials and make them available for recycling. The commercial generator shall either self-transport the designated recyclable materials or utilize a registrant to collect and transport the designated recyclable materials to a recovered materials processing facility. Failure to separate the designated recyclable materials, except for de minimus amounts as determined by the city manager or designee, from solid waste loads delivered to a city facility, a facility under contract with the city or a solid waste container at point of generation will subject the

commercial generator to civil citation as provided in sections 2-336 through 2-339 of this Code and may, in addition, result in a surcharge as provided in subsection (c) below.

- (b) *Notice of noncompliant status.* Before a civil citation is issued, or a surcharge can be imposed, the commercial generator must be issued a notice advising of its noncompliant status. The notice shall provide a compliance date. If upon subsequent inspection the commercial generator is still not in compliance a civil citation will may be issued.
- (c) *Separation and collection or special pick-up by city.* If the city undertakes the separation and collection of the designated recycled materials or otherwise performs a special pick-up of garbage or trash because a commercial generator fails to separate the designated recyclable materials, except for de minimus amounts as determined by the city manager or designee, from solid waste loads delivered to a city facility, a facility under contract with the city or a solid waste container at point of generation, the city may have it removed and any expenses incurred will be included as a surcharge in the utility bill of the commercial generator.
- (d) *Appeal.* A commercial establishment may appeal the imposition of a surcharge to the 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) *Location of containers.*
 - (1) All recovered materials shall be placed in an appropriate industry standard container. Where carts are used, they shall be placed at such 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.
 - (3) Property owners shall provide commercial establishment tenants with space for commercial service containers for garbage and recycling collection or make reasonable accommodations for shared commercial service containers for garbage and recycling collection in a convenient and nearby location. The commercial service containers should be located such that collection equipment can safely collect waste within the commercial service containers and such that the location of the commercial service containers does not create a health or litter hazard due to the distance from the tenant's commercial establishment. If the property owner is unable to meet the above requirement, the property owner shall cooperate with the city to develop an acceptable alternative plan for the collection of waste from the tenant, with the city making the final determination as to the location of the commercial service container.
- (f) *Maintenance of containers.* If a registrant provides recovered material containers to its customers, the registrant will be responsible for the proper maintenance of the container. Customers that acquire their own containers from any other source are responsible for the proper maintenance of the container, except that damage done by the registrant shall be the responsibility of the registrant; and for ensuring that the container can be serviced by the registrant's equipment.
- (g) *Proof of participation in recycling program.* A commercial generator, generator of construction and demolition debris or owner of a commercially-collected residential property shall produce proof of a valid

and current contract with a registrant or receipts for delivery of recovered materials to an approved site, upon request of the city manager or designee.

- (h) *Requirement for a take back program for prescription drugs.* Beginning June 1, 2023, all commercial generators distributing or providing prescription medicines or drugs at a retail level shall provide on-site publicly accessible containers for the collection and disposal of prescription medicines or drugs and shall collect, and dispose of or destroy, such drugs in accordance with state and federal law.
- (i) *Commercially-collected residential recycling.* All commercially-collected residential serviced property owners/developers and their affiliated entities, including but not limited to landlords, management companies, condominium associations, and home owner associations shall establish a recycling program that:
 - (1) Includes recycling of all designated recyclable materials;
 - (2) Provides an industry standard recovered materials container in a common area on the property that is as convenient and accessible to the residents as garbage collection containers. If the city manager or designee determines the location of recovered materials containers fails to meet this requirement, the city manager shall determine an appropriate location on the property for recycling containers;
 - (3) Provides an adequate level of service and capacity of designated recyclable collection containers based on the number of residents units, or generation at the property. If the city manager or designee determines the level of service and capacity of recycling containers is inadequate, the city manager shall determine an appropriate level of service and capacity of recycling containers;
 - (4) Prominently posts and maintains one or more signs in common areas where designated recyclable materials are collected that specify the materials accepted for recycling;
 - (5) Distributes recycling information in printed or electronic form to each occupant or unit on the property: a) upon commencement of the tenant's lease or unit sale, b) at least once annually, and c) within 14 days after any changes to recycling services on the property; and
 - (6) By October 1, 2023, provides at least one indoor recycling storage container per unit of a type and design approved by the city for unit occupants to easily transport designated recyclable materials to the collection area on the property. If the occupant owns the unit, the owner of the unit shall supply their own indoor recycling storage container.
- (j) *Commercially-collected residential property lease transition plan.*
 - (1) Beginning June 1, 2023, commercially-collected residential properties with at least 200 leased units that are located within the designated area shall submit to the public works department a plan to divert from the landfill waste stream usable and functioning household goods, furnishings, and electronics, and recyclable cardboard resulting from the high volume move-in and move-out periods that occur April 20—May 15 and July 20—August 25 of each year. Beginning January 1, 2025, commercially-collected residential properties with at least 50 leased units that are located within the designated area shall submit to the public works department a plan to divert from the landfill waste stream usable and functioning household goods, furnishings, and electronics, and recyclable cardboard resulting from the high volume move-in and move-out periods that occur April 20—May 15 and July 20—August 25 of each year. The designated area will be described in a map on file in the public works department, and may be revised from time to time by the public works director. The plan shall be submitted on a form prepared by the city. At a minimum the plan must contain:
 - a. An affirmation that the commercially-collected property will provide notice to tenants at least one month in advance of the move-out period that encourages the sale or donation of goods, the location of the donation collection site, and the availability of free goods at the donation collection site;

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- b. The location of the donation collection site;
 - c. A plan for protection of the collected goods from adverse weather conditions (including rain); and
 - d. Identify the local reuse organization(s) that will accept the donated goods.
- (2) The city shall approve or disapprove the plan within 15 business days of the plan being submitted and send written notice of the decision to the commercially-collected residential property. If approved, the proposed plan shall be implemented no later than 60 days after approval. If the plan is disapproved, the commercially-collected residential property shall re-submit the plan no later than 30 days after the date of its disapproval.
- (k) *Exemptions.* A commercial generator may request an exemption from the requirements within section 27-85(e)(2). The city manager or designee shall grant a request for an exemption if the commercial generator demonstrates to the satisfaction of the city manager or designee that the volume of designated recyclable materials generated is de minimus or space is not available at a given property for additional container placement. Each exemption request must be completed and submitted using the standardized forms provided by the city. Commercial generators shall be notified in writing within 60 days of whether their exemption request is granted or denied.

(Ord. No. 210129 , § 1, 6-2-22)

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

- (a) *Registration required.* No person, including a commercial franchisee, shall collect, transport, convey or process recovered materials in the city without a registration certificate from the city. Each commercial franchise holder who desires to collect recovered materials as part of the commercial recycling program shall be granted a registration certificate upon completing an application and providing the necessary documentation. No application fee will be required until such time as the commercial franchise would have terminated had it not been extended by subsection 27-79.1. This subsection does not prohibit the city from entering into an exclusive franchise agreement or issuing exclusive certificates of registration for the collection of recovered materials from residential properties or commercially-collected residential properties.
- (b) *Application for a recovered material certificate.*
- (1) Applications for registration shall be obtained from and returned to the department of solid waste.
 - (2) The applicant shall state whether it is a processor, a transporter, or both.
 - (3) Requested information on the application shall be limited to that information required by F.S. § 403.7046.
 - (4) The application must be accompanied by:
 - a. A copy of state certification as required by F.S. § 403.7046;
 - b. Disclosure of ownership as set forth below; and
 - c. Proof of insurance as set forth below.
- (c) *Renewal of registration.* The certificate of registration may be valid for five years, and may be renewed up to two times upon:
- (1) Disclosure of ownership as set forth below;
 - (2) Proof of insurance as set forth below as of the time of renewal; and

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- (3) Proof that the registrant is still providing service to customers.
- (d) *Operating requirements for registrants.* Persons collecting, transporting, conveying or processing recovered materials in the city shall comply with the following operating requirements:
- (1) *Disclosure of ownership.* Each registrant shall annually provide two copies of a notarized statement disclosing the names of its owners, general and limited partners, or corporate or registered name under which it will conduct its business as authorized by this article.
 - (2) *Response to complaint.* Each registrant shall be responsible for responding to any and all complaints which involve registrant's actions that create a nuisance or have the potential to create a nuisance. Response shall be within 24 hours of the complaint, or by 5:00 p.m. Monday if the complaint was received during a weekend.
 - (3) *Clean-up.* A registrant shall handle recovered materials containers with reasonable care and return them to the approximate location from which they were collected. A registrant shall clean up all materials spilled during its collection operation.
 - (4) *Emergencies.* A registrant shall not be required to provide collection services when all appropriate recycling sites are closed or a city emergency or imminent emergency exists, as determined by the city manager or designee. Collections shall resume on the instruction of the city manager or designee.
 - (5) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be responsible for any losses or damages of any kind arising from its performance or nonperformance under its registration. The registrant shall defend at its own expense or reimburse the city for its defense, at the city's option, of any and all claims and suits brought against the city, its elected or appointed officers, employees, and agents resulting from the registrant's performance or nonperformance of service pursuant to the registration.
 - (6) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or accidental release of recovered material during transport.
 - (7) *Insurance.* A registrant shall purchase and maintain the types and amounts of insurance set forth below from companies authorized to do business in the State of Florida. The city shall be named as an additional insured on the general liability insurance if the registrant utilizes city facilities. Failure to maintain insurance shall result in revocation of registration.
 - a. General liability insurance - \$500,000.00 per occurrence if the registrant utilizes city facilities.
 - b. Commercial motor vehicle insurance as required by F.S. Ch. 627.
 - c. Workers compensation as required by F.S. Ch. 440.
 - (8) *Other laws, rules and regulations.* A registrant shall procure at its own expense all local, state and federal franchises, certificates, permits or other authorizations necessary for the conduct of its operations. A registrant and its employees, officers and agents shall comply with all relevant local, state, and federal laws, rules and regulations, orders and mandatory guidelines applying to the collection or processing services being rendered.
 - (9) *Effect of certificate.* Issuance of a registration certificate by the city shall not be deemed to be a waiver of any applicable local, state or federal law or regulation, including but not limited to zoning or planning regulations, with respect to a recycling operation of any kind, nor shall it create any vested right to own or operate any type of recycling operation.
 - (10) *Hours of operation.* A registrant shall make available daily collection of designated recyclable materials. Collection shall begin no earlier than 6:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday, except in areas of mixed residential and commercial occupancy where collections shall begin

no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday. Sunday service shall not begin before 8:00 a.m. and shall cease no later than 9:00 p.m.

- (e) *Separation of residential and commercial materials.* Curbside collection of designated recyclable materials from commercial generators shall be allowed only with prior approval of the city manager or designee, when considering a request to provide curbside collection, the city manager or designee shall consider the following factors:
 - (1) Accessibility of collection vehicles to property.
 - (2) Available space for placement of containers.
 - (3) Predominant use of property.
 - (4) Safety.
- (f) *Delivery of materials.* All recovered materials shall be delivered to a recovered materials dealer that has been certified by the Florida Department of Environmental Protection or subsequent responsible agency, and the city.
- (g) *Reports.*
 - (1) The recovered materials registrant shall submit to the city manager or designee reports as authorized by F.S. § 403.7046, and the regulations promulgated pursuant to the authority stated in statute.
 - (2) Within 15 days of changing facilities where recovered materials is being delivered, recovered materials registrants shall provide the name and location of the new facilities to the city manager or designee.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-87. Revocation of registration.

- (a) Upon a finding of just cause, the public works director or designee shall deny a registration in the case of application for a new or renewed registration, and suspend or revoke a registration for a specified period of time in the case of previously issued registration. Just cause shall be consistent and repeated violation of state or local laws, ordinances, rules, and regulations relating to the applicant's or registrant's operation; or loss of state certification as a recovered materials dealer.
- (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given reasonable notice of the proposed action to be taken and shall have an opportunity to present to the public works director or designee written and oral evidence at a hearing as to why the registration should not be denied, revoked or suspended. The notice of the proposed action shall be served upon the applicant or registrant by registered mail or personal service. The hearing shall be held no earlier than ten days after notice is received by the applicant or registrant. Notice of the final decision of the public works director or designee shall be sent in writing to the applicant or registrant.
- (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public works director or designee may appeal the decision to the city manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city clerk within ten days after the decision of the public works director or designee. The city clerk shall inform the public works director of the appeal, and the public works director or designee shall forthwith transmit to the city clerk copies of all papers constituting the record upon which the action appealed is based. No later than 15 days after the date of filing the appeal, the city manager shall review the record and decide whether the decision of the public works director was based on competent, substantial evidence. If the city manager finds competent, substantial evidence for the public works director's decision, the city manager will uphold the public works director's decision; otherwise, the city

manager will reverse the public works director's decision. The decision of the city manager shall constitute final administrative action.

(Ord. No. 210129 , § 1, 6-2-22)

Sec. 27-88. Penalties for violation.

Except as otherwise provided, violations of this division may be enforced by civil citation if specifically provided for by section 2-339, as provided by section 1-9 of this Code of Ordinances, by code enforcement proceedings, or the city may seek injunctive relief.

(Ord. No. 210129 , § 1, 6-2-22)

DIVISION 4. SINGLE-USE PLASTIC AND POLYSTYRENE PRODUCTS

Sec. 27-89. Definitions.

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

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

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

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

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

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

(Ord. No. 210129 , § 2, 6-2-22)

Sec. 27-90. Prohibition on single-use plastic straws and single-use plastic stirrers.

- (a) Prepared food providers shall not sell, use, offer for sale or use, or provide to any person a single-use plastic straw or single-use plastic stirrer.
- (1) *Exceptions:* Although the discontinuation of the use of single-use plastic straws and single-use plastic stirrers is strongly encouraged, this article shall not apply to the sale or use of single-use plastic straws or single-use plastic stirrers as follows:
- a. Pre-packaged beverages with a single-use plastic straw or single-use plastic stirrer that are prepared and packaged outside the city and are not altered, packaged or repackaged within the city.
 - b. Boxes of pre-packaged single-use plastic straws or single-use plastic stirrers that are offered for retail sale to a consumer for personal use, that are prepared and packaged outside the city and are not altered, packaged or repackaged within the city.
 - c. By medical or dental facilities.
 - d. By hospitals.
 - e. By nursing homes or assisted living facilities.
 - f. By any disabled person that requires or relies on same to consume beverages and/or food supplements.

(Ord. No. 210129 , § 2, 6-2-22)

Sec. 27-91. Single-use plastic food accessories available upon request.

Prepared food providers shall not provide single-use plastic food accessories for dine-in, take-out or delivery, unless the single-use food accessory is specifically requested by the customer or is provided at a customer self-serve station.

(Ord. No. 210129 , § 2, 6-2-22)

Sec. 27-92. Prohibition on use of expanded polystyrene containers on city property or city right-of-way.

Any person or entity that is required to obtain a permit, use agreement. or other authorization or approval to use city property or city right-of-way pursuant to chapter 18, article II, park regulations; chapter 19, peddlers, solicitors and canvassers; and chapter 30, article V, Use standards after the effective date of this article is prohibited from using expanded polystyrene containers for the permitted activity on city property or city right-of-way. This prohibition excludes the distribution of any prepackaged food that is filled and sealed in an expanded polystyrene container prior to receipt by the person or entity and it excludes raw meat or seafood that is stored in an expanded polystyrene container and sold from a refrigerated display or storage case.

(Ord. No. 210129 , § 2, 6-2-22)

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

All persons are prohibited from intentionally releasing outdoors any plastic confetti, glitter or balloons. Consistent with F.S. § 379.233, the following balloon releases are exempt from the above prohibition: (a) balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; (b) hot air balloons that are recovered after launching; or (c) balloons that are either biodegradable or photodegradable, as determined by rule of the fish and wildlife conservation commission, and which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments. The party responsible for the release shall make available evidence of the biodegradability or photodegradability of said balloons in the form of a certificate executed by the manufacturer. Failure to provide said evidence shall be prima facie, evidence of a violation of this act.

(Ord. No. 210129 , § 2, 6-2-22)

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

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

(Ord. No. 210129 , § 2, 6-2-22)

DIVISION 6. FOOD WASTE

Sec. 27-95. Registration of food waste collectors.

- (a) *Registration required.* No person, including a commercial franchisee, shall collect, transport, convey or process food waste intended for industrial uses or composting in the city for hire, remuneration, or other consideration without a registration certificate from the city. Each commercial franchise holder who desires to collect food waste in the city intended for industrial uses or composting shall be granted a food waste registration certificate upon completing an application and providing the necessary documentation. No application fee will be required for renewals of existing registration certificates. This subsection does not prohibit the city from entering into an exclusive franchise agreement or issuing exclusive certificates of registration for the collection of food waste materials from residential or commercially serviced properties.
- (b) *Application for a food waste collector registration.*
 - (1) Applications for registration shall be obtained from and returned to the solid waste division.
 - (2) The applicant shall:
 - a. State whether it is a processor, a transporter, or both;
 - b. Provide a list of facilities that meet permitting requirements of the State of Florida where material will be delivered;
 - c. Provide disclosure of ownership as set forth below; and
 - d. Provide proof of insurance as set forth below.
- (c) *Renewal of registration.* The certificate of registration shall be valid for one year.

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- (d) *Operating requirements for food waste registrants.* Persons collecting, transporting, conveying food waste in the city shall comply with the following operating requirements:
- (1) *Delivery to food waste processing facility.* All food waste shall be delivered to a food waste processing facility that meets permitting requirements of the State of Florida. Within 15 days of changing facilities where food waste is being delivered, food waste registrants shall provide the name and location of the new facilities to the city manager or designee.
 - (2) *Disclosure of ownership.* Each registrant shall annually provide two copies of a notarized statement disclosing the names of its owners, general and limited partners, and corporate or registered name under which it will conduct its business as authorized by this article.
 - (3) *Response to complaints.* Each registrant shall be responsible for responding to any and all complaints which involve registrant's actions that create a nuisance or have the potential to create a nuisance. Response shall be within 24 hours of the complaint, or by 5:00 p.m. Monday if the complaint was received during a weekend.
 - (4) *Clean-up.* A registrant shall handle food waste containers with reasonable care and return them to the approximate location from which they were collected. A registrant shall clean up all materials spilled during its collection operation.
 - (5) *Emergencies.* A registrant shall not be required to provide collection services when all appropriate food waste collection sites are closed or a city emergency or imminent emergency exists, as determined by the city manager or designee. Collections shall resume on the instruction of the city manager or designee.
 - (6) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be responsible for any losses or damages of any kind arising from its performance or nonperformance under its registration. The registrant shall defend at its own expense or reimburse the city for its defense, at the city's option, of any and all claims and suits brought against the city, its elected or appointed officers, employees, and agents resulting, from the registrant's performance or nonperformance of service pursuant to the registration.
 - (7) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or accidental release of food waste during transport.
 - (8) *Insurance.* A registrant shall purchase and maintain the types and amounts of insurance set forth below from companies authorized to do business in the State of Florida. Failure to maintain insurance shall result in revocation of registration.
 - a. General liability insurance—\$500,000.00 per occurrence if the registrant utilizes city facilities.
 - b. Commercial motor vehicle insurance as required by F.S. Ch. 627.
 - c. Workers compensation as required by F.S. Ch. 440.
 - (9) *Other laws, rules and regulations.* A registrant shall procure at its own expense all local, state and federal franchises, certificates, permits or other authorizations necessary for the conduct of its food waste operations. A registrant and its employees, officers and agents shall comply with all relevant local, state, and federal laws rules and regulations, orders and mandatory guidelines applying to the collection or processing services being rendered.
 - (10) *Effect of certificate.* Issuance of a registration certificate by the city shall not be deemed to be a waiver of any applicable local, state or federal law or regulation, including but not limited to zoning or planning regulations, with respect to a food waste operation of any kind, nor shall it create any vested right to own or operate any type of food waste operation.

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- (11) *Hours of operation.* A registrant shall make available daily collection of food 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 in areas of mixed residential and commercial occupancy where collections shall begin no earlier than 7:00 a.m. and shall cease no later than 9:00 p.m. Monday through Saturday. Sunday service shall not begin before 8:00 a.m. and shall cease no later than 9:00 p.m.
- (e) *Separation of residential and commercial materials.* Curbside collection of food waste from commercial generators shall be allowed only with prior approval of the city manager or designee. When considering a request to provide curbside collection, the city manager or designee shall consider the following factors:
- (1) Accessibility of collection vehicles to property.
 - (2) Available space for placement of containers.
 - (3) Predominant use of property.
 - (4) Safety.
- (f) *Reports.* The food waste registrants shall submit to the city manager or designee reports, which shall include data as to number of customers, volume of food waste collected, food waste processing facilities to which food waste is delivered, and volume of food waste delivered to food waste processing facilities.

(Ord. No. 200381 , § 1, 6-2-22)

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

- (a) Upon a finding of just cause, the public works director or designee shall deny a food waste collector registration in the case of application for a new or renewed registration, or suspend or revoke a registration for a specified period of time in the case of previously issued registration. Just cause shall include but not be limited to a failure to meet the requirements of this division, violation of any of the provisions of this division or any of the ordinances of the city, or the laws of the United States or the State of Florida, the violations of which reflect unfavorably on the fitness of the holder to offer food waste collection services to the public, or loss of an required state permit as a food waste collector, transporter, or processor.
- (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given reasonable notice of the proposed action to be taken and shall have an opportunity to present to the public works director or designee written and oral evidence at a hearing as to why the registration should not be denied, revoked or suspended. The notice of the proposed action shall be served upon the applicant or registrant by registered mail or personal service. The hearing shall be held no earlier than ten days after notice is received by the applicant or registrant. Notice of the final decision of the public works director or designee shall be sent in writing to the applicant or registrant.
- (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public works director or designee may appeal the decision to the city manager. The appeal shall be taken by filing written notice thereof, in duplicate, with the city clerk within ten days after the decision of the public works director or designee. The city clerk shall inform the public works director of the appeal, and the public works director or designee shall forthwith transmit to the city clerk copies of all papers constituting the record upon which the action appealed is based. No later than 15 days after filing the appeal, the city manager or designee shall review the record and decide whether the decision of the public works director was based on competent, substantial evidence. If the city manager finds competent, substantial evidence for the public works director's decision, the city manager will uphold the public works director's decision; otherwise, the city manager will reverse the public works director's decision. The decision of the city manager shall constitute final administrative action.

(Ord. No. 200381 , § 1, 6-2-22)

Sec. 27-95.2. Mandatory commercial food waste collection established.

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

- (1) All commercially-collected residential serviced property owners/developers and their affiliated entities, including but not limited to landlords, management companies, condominium associations, and home owner associations shall, by June 1, 2024, establish a food waste collection program that:
- a. Includes collection and diversion of food waste from the wastestream. A commercially-collected residential property shall, upon request of the city manager director or designee, produce proof of a valid and current contract with a food waste registrant or receipts for collection and delivery of food waste materials to a food waste processing facility that meets permitting requirements of the State of Florida, unless the commercially-collected residential property is granted an exemption;
 - b. Provides an industry standard food waste container in a common area on the property that is as convenient and accessible to the residents as garbage and recovered materials collection containers. If the city manager or designee determines the location of food waste containers fails to meet this requirement, the city manager or designee shall determine an appropriate location on the property for the food waste containers;
 - c. Provides an adequate level of service and capacity of food waste collection containers based on the number of residents, units, or generation at the property. If the city manager or designee determines the level of service and capacity of food waste containers is inadequate, the city manager or designee shall determine an appropriate level of service and capacity of food waste containers;
 - d. Prominently posts and maintains one or more signs in common areas where food waste is collected that specify the materials accepted as food waste;
 - e. Distributes food waste collection information in printed or electronic form to each occupant or unit on the property: a) upon commencement of the tenant's lease or unit sale, b) at least once annually, and c) within 14 days after any changes to food waste services on the property; and
 - f. At such time when food waste services are made available at property, provides at least one indoor food waste storage container per unit of a type and design approved by the city for occupants to easily transport food waste to the collection area on the property. If the occupant owns the unit, the owner of the unit shall supply their own indoor food waste storage container.
- (2) *Exemptions.* A commercially-collected residential property may request an exemption from the requirements of subsection (1). The city manager or designee shall grant a request for an exemption if the commercially-collected residential property demonstrates to the satisfaction of the city manager or designee that space is not available at a given property for additional container placement or provides proof that the commercially-collected residential property is unable to comply due to lack of available service providers. An exemption request must be completed and submitted every six months using forms provided by the city. The commercially-collected residential property shall be notified in writing within 60 days of whether its exemption request is granted or denied.

- (b) *Requirement for commercial establishments to collect food waste.* By June 1, 2023 commercial establishments that generate one cubic yard of food waste or more per week shall separate food waste from the waste stream and collect food waste in containers that are separate from garbage and recovered materials. By June 1, 2026, all commercial establishments shall separate food waste from the waste stream and collect food waste in containers that are separate from garbage and recovered materials, unless the amount of food waste generated by the establishment is both de minimus and is less than one cubic yard of

food waste per week. The commercial establishment shall make food waste in the receptacles available for processing. A commercial establishment shall, upon request of the city manager director or designee, either provide receipts for delivery of food waste to a food waste processing facility that meets permitting requirements of the State of Florida or produce proof of a valid and current contract with a food waste registrant.

- (c) *Maintenance of containers.* If a registrant provides food waste containers to its customers, the registrant will be responsible for the proper maintenance of the container. Customers that acquire their own containers from any other source are responsible for the proper maintenance of the container, except that damage done by the registrant shall be the responsibility of the registrant; and for ensuring that the container can be serviced by the registrant's equipment.
- (d) *Location of containers.* All food waste shall be placed in an appropriate industry standard container. Where carts are used, they shall be placed at such 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.
 - (1) Any commercial establishment providing receptacles for collecting and disposing of garbage and recycling to the public shall provide an equal number of receptacles for collection of food waste paired next to the garbage and recycling receptacles in areas of the establishment where food is consumed. If the commercial establishment is unable to meet the above requirement, the commercial establishment shall work with the city to develop an acceptable alternative plan for the placement of receptacles for food waste on the premises, with the city making the final determination based upon volume of food waste produced and space for receptacle placement at the commercial establishment.
 - (2) Property owners shall provide commercial establishment tenants with space for commercial service containers for food waste collection or make reasonable accommodations for shared commercial service containers for food waste collection in a convenient and nearby location. The commercial service containers should be located such that collection equipment can safely collect waste within the commercial service containers and such that the location of the commercial service containers does not create a health or litter hazard due to the distance from the tenant's commercial establishment. If the property owner is unable to meet the above requirement, the property owner shall work with the city to develop an acceptable alternative plan for the collection of food waste from the tenant, with the city making the final determination as to the location of the commercial service container.

(Ord. No. 200381 , § 1, 6-2-22)

Sec. 27-95.3. Penalties for violation.

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

(Ord. No. 200381 , § 1, 6-2-22)

DIVISION 7. FOOD DIVERSION

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

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

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- (1) By January 1, 2023, food retailers that occupy at least 25,000 square feet, including but not limited to grocery stores, convenience stores, meat markets, poultry markets, fish and related aquatic food markets, and produce markets.
 - (2) By January 1, 2024, food service establishments that occupy at least 4,500 square feet, businesses with a commercial kitchen(s) where the kitchen(s) occupies at least 1,000 square feet, businesses engaged in selling food to other businesses, food manufacturers (excluding food service establishments) engaged in processing or fabricating food products from raw materials for sale directly to the public retailers, or wholesalers.

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

- (1) Feeding hungry people;
 - (2) Feeding animals;
 - (3) Providing for industrial uses;
 - (4) Composting.
- (b) *Proof of participation in food waste diversion program.* Upon request of the city manager or designee a commercial generator required to divert food or food waste shall provide the following as proof of compliance: 1) receipts for delivery of food to a food bank or other facility that provides food to hungry people or animals, or 2) receipts for delivery of food waste to a food waste processing facility that meets permitting requirements of the State of Florida, or produce proof of a valid and current contract with a food waste registrant.
- (c) *Exemptions.* A commercial generator may request an exemption from the requirements of this section. The city manager or designee shall grant a request for an exemption if the commercial generator demonstrates that it is unable to comply due to lack of available service providers or facilities that accept food or food waste. An exemption request must be completed every six months and submitted using forms provided by the city. Commercial generators shall be notified in writing within 60 days of whether their exemption request is granted or denied.

(Ord. No 210626, § 1, 6-2-22)

Sec. 27-95.5. Penalties for violation.

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

(Ord. No 210626, § 1, 6-2-22)