

June 20, 2019
Regular Council Meeting

Discussion of Plastic Bag Reduction Ordinance – Councilmember Gage



County of Hawai'i Department of Environmental Management (<http://www.hawaii Zerowaste.org>) Solid Waste Division & Recycling Section

Search for:

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[HOME \(HTTP://WWW.HAWAIIZEROWASTE.ORG/\)](http://www.hawaii Zerowaste.org/) » [REUSE \(HTTP://WWW.HAWAIIZEROWASTE.ORG/REUSE-2/\)](http://www.hawaii Zerowaste.org/reuse-2/) » COUNTY OF HAWAII PLASTIC BAG REDUCTION ORDINANCE

County of Hawai'i Plastic Bag Reduction Ordinance



The purpose of the ordinance is to reduce or eliminate single use plastic carryout bags.
The law became effective January 17, 2013.

REASONS FOR THE LAW



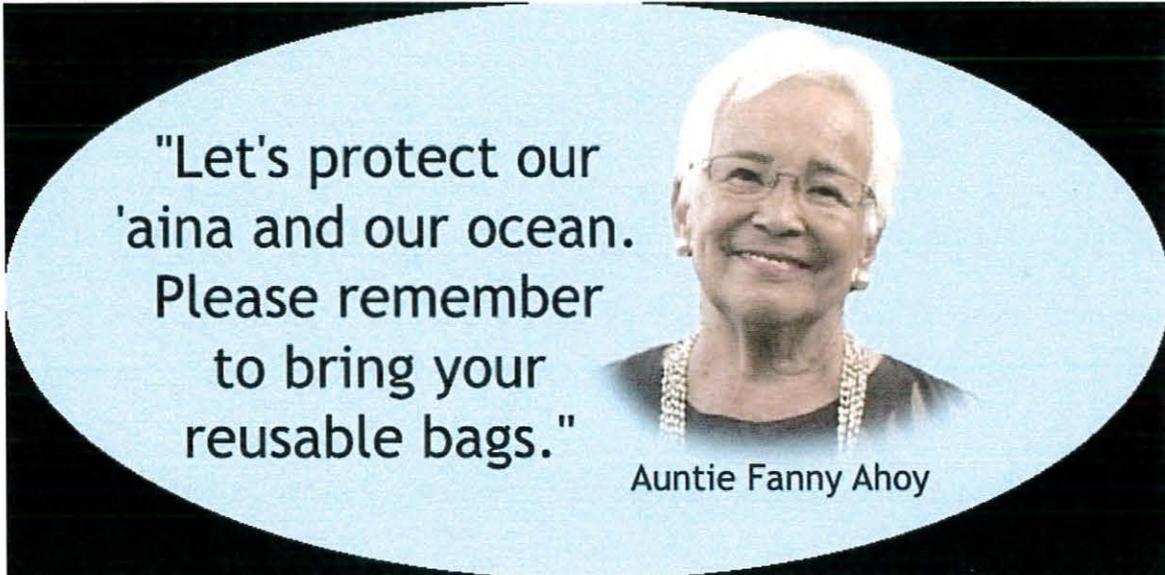
- Plastic bags can entangle or choke fish, turtles, birds and other animals that mistake the plastic for food.
- Plastic bags contribute to litter, especially because they are easily carried by the wind. Knot them to prevent fly-aways.
- Plastic bags may degrade into unsafe chemicals.
- Single use plastic bags are not consistent with the County's goal to reduce the quantity of materials going into the landfills.

Hawai'i is the first state to have plastic bag reduction laws in all counties!

IMPORTANT INFORMATION ABOUT THE NEW LAW

- All County of Hawai'i businesses including groceries, restaurants, farmer's markets and other retailers must comply.
- Beginning January 17, 2013, if stores provided single use plastic carryout bags, they were required to charge a fee.

- Starting on January 17, 2014, all single-use plastic carryout bags are prohibited.
- Allows for plastic bags to be used for bulk items such as meat, fish, nuts, grains, fresh produce, small hardware, garments & prescription drugs.
- It does not regulate paper bags or fees for reusable bags.
- Click on the links at the bottom of this page to see the complete ordinance, the adopted administrative rules and other information.
- To request business resources or consumer educational materials (*while supplies last*) please send an email to bring-ur-bag@co.hawaii.hi.us (<mailto:bring-ur-bag@co.hawaii.hi.us>) or call 961-8270.
- For more information on the law and answers to many questions please read our [Plastic Bag Reduction Ordinance – Frequently Asked Questions](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic_Bag_Reduction_Ordinance_-_Frequently_Asked_Questions_2014-02-06.pdf) ([http://www.hawaii Zerowaste.org/site-content/uploads/Plastic_Bag_Reduction_Ordinance - Frequently Asked-Questions_2014-02-06.pdf](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic_Bag_Reduction_Ordinance_-_Frequently_Asked_Questions_2014-02-06.pdf)).



Reusable Bags are the Best Choice

A high-quality reusable bag has the potential to replace over 600 single-use plastic bags over its lifetime. Paper bags are not the best alternative to a single-use plastic bag. It takes 14 million trees each year in the United States to produce a year's supply of paper bags for retail use. Reusable bags reduce litter and conserve natural resources; making them the best choice!

Shop with Aloha and bring your reusable bag!



REUSABLE BAG TIPS

- Keep reusable bags by the door, in your car, or near your car keys.
- Keep foldable bags in pockets, backpacks, or your purse.

- Keep bags clean by washing them regularly. For some helpful tips on maintaining [Germ-free Re-Usable Bags](http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf) (http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf) check out the [flyer](http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf) (http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf) by the Nutrition Education for Wellness Program of the UH Cooperative Extension Service.
- Give reusable bags to your friends & family. They make great gifts.

Notice: Public hearings regarding the administrative rules relating to the law were held on December 6, 2012 in West Hawai'i at the West Hawai'i Civic Center in Kailua-Kona and December 12, 2012 in East Hawai'i at the Aupuni Center in Hilo. Please see the following links for a copy of the hearing notice and details about the meeting locations and rules.

Additional Information & Resources:

[County of Hawai'i Plastic Bag Reduction Ordinance No. 12-1](http://www.hawaiiizerowaste.org/site-content/uploads/PLASTIC-BAG-REDUCTION-ORDINANCE-12-001-2010-2012.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PLASTIC-BAG-REDUCTION-ORDINANCE-12-001-2010-2012.pdf>) (PDF)

[County of Hawai'i Plastic Bag Reduction Ordinance Administrative Rules](http://www.hawaiiizerowaste.org/site-content/uploads/12-20-12-County-Clerk-Filing-of-Pastic-Bag-Reduction-Ordinance-Admin-Rul....pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/12-20-12-County-Clerk-Filing-of-Pastic-Bag-Reduction-Ordinance-Admin-Rul....pdf>) (PDF)

[County of Hawai'i Plastic Bag Reduction Ordinance Administrative Rules Public Hearing Notice](http://www.hawaiiizerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Administrative-Rules-Public-Meeting-Notice-2012-10-16.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Administrative-Rules-Public-Meeting-Notice-2012-10-16.pdf>) (PDF)

[County of Hawai'i Media Release Reminding Public of Plastic Bag Reduction Ordinance Effective Date](http://www.hawaiiizerowaste.org/site-content/uploads/2013-01-16-MEDIA-RELEASE-Plastic-Bag-Reduction-Ordinance-Takes-Effect-2013-01-17.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/2013-01-16-MEDIA-RELEASE-Plastic-Bag-Reduction-Ordinance-Takes-Effect-2013-01-17.pdf>) (PDF)

County of Hawai'i Plastic Bag Reduction Business Resources & Consumer Education Materials:

[Plastic Bag Reduction Ordinance – Frequently Asked Questions](http://www.hawaiiizerowaste.org/site-content/uploads/Plastic_Bag_Reduction_Ordinance_-_Frequently_Asked_Questions_2014-02-06.pdf) (http://www.hawaiiizerowaste.org/site-content/uploads/Plastic_Bag_Reduction_Ordinance_-_Frequently_Asked_Questions_2014-02-06.pdf) (PDF)

[Reusable Bag Cleaning Info from the Nutrition Education for Wellness Program of the University of Hawai'i Cooperative Extension Service](http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf) (http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf)

[Letter to Businesses about the Plastic Bag Reduction Ordinance](http://www.hawaiiizerowaste.org/site-content/uploads/Cover-Letter-to-Businesses-2012-12-11-Mailer.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/Cover-Letter-to-Businesses-2012-12-11-Mailer.pdf>) (PDF)

["Bring Your Bags, Shop with Aloha" Banner](http://www.hawaiiizerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Banner-Full-Quality.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Banner-Full-Quality.pdf>) (PDF, Full Size 3' x 12' 21 MB)



[Banner-preview.jpg](http://www.hawaiiizerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Banner-preview.jpg) (JPG, small preview size)

["Bring Your Bags, Shop with Reusable Bags" Poster](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO_Poster_version_10_high-resolution.pdf) (http://www.hawaiiizerowaste.org/site-content/uploads/PBRO_Poster_version_10_high-resolution.pdf) (PDF, Full size 16" x 25" 17 MB, updated)

["Bring Your Bags, Shop with Reusable Bags" Poster](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO_Poster_version_10_low-resolution.jpg) (http://www.hawaiiizerowaste.org/site-content/uploads/PBRO_Poster_version_10_low-resolution.jpg) (JPG, small preview size, updated)

["Bring Your Bags, Take Reusable Bags When Shopping." Leaflet](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-V4-side-1.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-V4-side-1.pdf>), front (PDF, 5.5" x 4.25" double-sided, quarter page cut 2.4 MB)

["Bring Your Bags, Take Reusable Bags When Shopping." Leaflet](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-V4-side-2.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-V4-side-2.pdf>), back (PDF, 5.5" x 4.25" double-sided, quarter page cut 2.4 MB)

["Bring Your Bags, Take Reusable Bags When Shopping." Leaflet](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-Version-4-preview.jpg) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Leaflet-Version-4-preview.jpg>) (JPG, preview, 8.5" x 11")

[Plastic Bag Reduction Ordinance Info & Tips Flyer](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Flyer-Z-Page-1-V4.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Flyer-Z-Page-1-V4.pdf>), front (PDF, 8.5" x 11" double-sided 1.4 MB)

[Plastic Bag Reduction Ordinance Info & Tips Flyer](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Flyer-Z-page-2-V4.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Flyer-Z-page-2-V4.pdf>), back (PDF, 8.5" x 11" double-sided 2.8 MB)

["Bring Your Bags, Shop With Aloha" Checkout Button](http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Button-6.pdf) (<http://www.hawaiiizerowaste.org/site-content/uploads/PBRO-Button-6.pdf>) (PDF, 3" round)

["Plastic Bag Monster" – Newspaper Ad \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Plastic_Bag_Monster_ad.jpg\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Plastic_Bag_Monster_ad.jpg) (JPG, *Full Size, 202 KB, new*)

["Everyone Is On The Path To Zero Waste By Shopping With Reusable Bags" – Newspaper Ad \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Version-4-preview.jpg\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Version-4-preview.jpg) (JPG, *Full Size, 1.7 MB, new*)

["Take Reusable Bags When You Go Shopping" – Michael Tokunaga – Newspaper Ad \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Version-4-preview.jpg\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Version-4-preview.jpg) (JPG, *preview size, 169 KB*)

["Take Reusable Bags When You Go Shopping" – Aunty Fanny Ahoy – Newspaper Ad \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Ahoy_and_Law_version_2_2013-01-29_hi_res.pdf\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Ahoy_and_Law_version_2_2013-01-29_hi_res.pdf) (PDF, *Full size, 1.9 MB, updated*)

["Take Reusable Bags When You Go Shopping" Newspaper Ad \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Ad-3-Version-B.jpg\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO-Newspaper-Large-Ad-3-Version-B.jpg) (JPG, *Full size, 200 KB*)

[Plastic Bag Reduction Public Service Announcement – "Protect" – video \(http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Protect-video.mp4\)](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Protect-video.mp4) (.mp4 format, *8.1 MB*)

[Plastic Bag Reduction Public Service Announcement – "Family" – video \(http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Family-video.mp4\)](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Family-video.mp4) (.mp4 format, *8.2 MB*)

[Plastic Bag Reduction Public Service Announcement – "Kōkua" – video \(http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Kokua-video.mp4\)](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-PSA-Kokua-video.mp4) (.mp4 format, *8.1 MB*)

[Plastic Bag Reduction Public Service Announcement – "Clean" – audio only \(http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Radio-ad-Clean.mp3\)](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Radio-ad-Clean.mp3) (.mp3 format, *680 KB*)

[Plastic Bag Reduction Public Service Announcement – "Help" – audio only \(http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Radio-ad-Help.mp3\)](http://www.hawaii Zerowaste.org/site-content/uploads/Plastic-Bag-Reduction-Ordinance-Radio-ad-Help.mp3) (.mp3 format, *687 KB*)

[Plastic Bag Reduction Public Service Announcement – "Ohana Reusable Bag Tips" – audio only \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Radio_ad_-_Ohana_Reusable_Bag_Tips.mp3\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Radio_ad_-_Ohana_Reusable_Bag_Tips.mp3) (.mp3 format, *1.4 MB, new*)

[Plastic Bag Reduction Public Service Announcement – "Bag Monsters" – audio only \(http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Radio_ad_-_Bag_Monsters.mp3\)](http://www.hawaii Zerowaste.org/site-content/uploads/PBRO_Radio_ad_-_Bag_Monsters.mp3) (.mp3 format, *1.4 MB, new*)

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ORDINANCE NO. 12 1 BILL NO. 17
 (DRAFT 2)

AN ORDINANCE AMENDING CHAPTER 14, HAWAI‘I COUNTY CODE 1983 (2005 EDITION, AS AMENDED) BY ADDING A NEW ARTICLE RELATING TO PLASTIC BAG REDUCTION.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Findings and purpose. It is the County’s responsibility to preserve the health of its residents and natural beauty of the island. Plastic bags, though a convenient commodity, have been recognized as detrimental to the environment and to the Island of Hawai‘i for the following reasons:

1. Plastic bags do not degrade into safe compounds. Consequently, they introduce unsafe chemicals into the environment.
2. Whether because of poor management or irresponsible disposal, plastic bags contribute to unsightly litter. Moreover, these plastic bags create the potential for death of marine and pasture animals through entanglement and ingestion.
3. Because plastic bags do not biodegrade, but instead break down into smaller and smaller pieces, plastic bags simplify the introduction of toxins into the marine environment, increasing the overall toxin concentration into the oceans, and inevitably into fish and other marine wildlife.
4. Plastic bags create an impediment to the County’s landfill diversion goals.

The council finds that, in order to preserve the health, safety, welfare, and scenic and natural beauty of the County of Hawai‘i, the use of plastic bags must be regulated. The Hawai‘i County General Plan, Environmental Quality Element 4.3, includes the following policies for the County:

- “(a) Take positive action to further maintain the quality of the environment.
- (b) Reinforce and strengthen established standards where it is necessary, principally by initiating, recommending, and adopting ordinances pertaining to the control of pollutants that affect the environment.
- (d) Encourage the concept of recycling agricultural, industrial, and municipal waste material.”

The council recognizes the need to proactively address the environmental harm resulting from the proliferation of plastic bags. The purpose of this article is to reduce the use of plastic bags and to encourage the use of environmentally preferable alternatives, such as reusable bags. This ordinance addresses only plastic shopping bags distributed to customers at checkout.

SECTION 2. Chapter 14, Hawai'i County Code 1983 (2005 Edition, as amended), is amended by adding a new article to be appropriately designated and to read as follows:

“Article _ . Plastic Bag Reduction.

Section 14-_. Purpose.

The purpose of this article is to reduce the use of plastic bags and to encourage the use of environmentally preferable alternatives, such as reusable cloth or paper bags.

Section 14-_. Definitions.

As used in this article:

“Business” means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, or any other legal entity, and includes any independent contractors associated with the business.

“Plastic checkout bag” means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and that is made from non-compostable or compostable plastic and not specifically designed and manufactured for multiple re-use.

“Reusable bag” means a bag that is specifically designed and manufactured for multiple re-use and is (1) made of cloth or other machine washable fabric or (2) made of paper specifically designed for multiple and long-term use.

Section 14-_. Administration.

The director of the department of environmental management shall administer this article including providing education and enforcement and shall adopt administrative rules including defining permissible bags and establishing penalties pursuant to chapter 91, Hawai'i Revised Statutes, within one hundred eighty days from the effective date of this ordinance.

Section 14-_. Plastic checkout bags prohibited.

Businesses shall not provide plastic checkout bags to their customers.

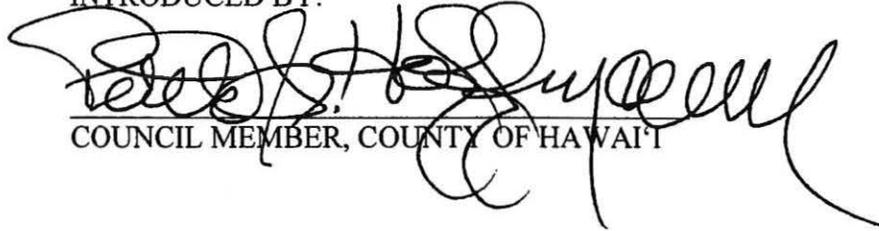
Section 14-_. Exemptions.

- (a) Organizations classified under Section 501 (c) of the United States Internal Revenue Code and non-incorporated community booster organizations are exempt from the provisions of this article.
- (b) Businesses may make plastic checkout bags available for purchase for one calendar year after the effective date of this ordinance.”

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall take effect one year after approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 16, 2011
Date of 1st Reading: February 16, 2011
Date of 2nd Reading: December 21, 2011
Effective Date: January 17, 2013

REFERENCE: Comm. 64.56

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

COUNTY CLERK
COUNTY OF HAWAII

(DRAFT 2)

2012 JAN 17 PM 4:07

Introduced By: Pete Hoffmann
Date Introduced: February 16, 2011
First Reading: February 16, 2011
Published: February 26, 2011

REMARKS: Postponed - March 2, 2011; Public Hearing - June 7, 2011; Motion to rescind the public hearings was withdrawn by the Introducer - July 7, 2011; Public Hearings - July 13 and 26, 2011, August 25, 2011, October 27, 2011, and November 15, 2011

Second Reading: December 21, 2011
To Mayor: December 30, 2011
Returned: January 17, 2012
Effective: January 17, 2013
Published: January 27, 2012

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda		X		
Onishi		X		
Pilago	X			
Smart	X			
Yagong				X
Yoshimoto		X		
	5	3	0	1

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda		X		
Onishi		X		
Pilago	X			
Smart	X			
Yagong				X
Yoshimoto		X		
	5	3	0	1

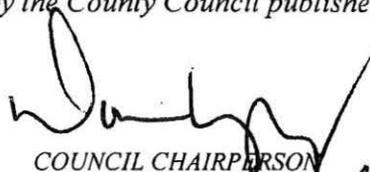
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

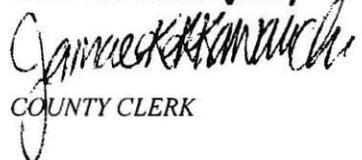


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date JAN - 3 2012

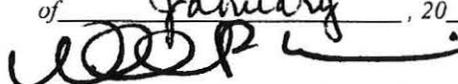


COUNCIL CHAIRPERSON



COUNTY CLERK

Bill No.: 17 (Draft 2)
Reference: C-64.56/EMC-1
Ord No.: 12 1

Approved/Disapproved this 17th day
of January, 2012.

MAYOR, COUNTY OF HAWAII

William P. Kenoi
Mayor



William T. Takaba
Managing Director

Walter K.M. Lau
Deputy Managing Director

County of Hawai'i

25 Aupuni Street • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 324-4444 • Fax (808) 323-4440

January 17, 2012

Members of the Hawai'i County Council
25 Aupuni Street
County of Hawai'i
Hilo, HI 96720

COUNTY CLERK
COUNTY OF HAWAII
2012 JAN 17 PM 4:06

Dear Council Members:

The Hawaii County Council adopted a plastic bag reduction ordinance (Bill 17, Draft 2) on December 21, 2011, and delivered it to me for my signature on December 30, 2011.

Following lengthy discussions with members of my administration and community members for and against this measure, I have decided to sign Bill 17, Draft 2, pursuant to the provisions of Section 3-12 of the Hawaii County Charter, to reduce the use of plastic bags on the Island of Hawaii. Although this legislation strives for an important milestone on the County's path toward Zero Waste, my decision to sign it is not without reservations.

Testimony at public hearings and comments received over the past few weeks reflected valid arguments on both sides of the issue. Plastic bags certainly are unwelcome as litter on our landscape, and they can be dangerous to marine mammals that mistakenly ingest them as food. Yet the testimony and comments leaned in favor of vetoing this bill, and I agree with those who say that charging fees for bags may have been a more effective course of action, and with those who say that education and voluntary private/public recycling programs are better ways than government mandates to deal with the littering problem associated with plastic bags.

With increasing education, more people already are opting to take their own reusable bags to the markets for shopping without the intrusion of new laws that govern individual behavior. User fees for bags also could help businesses with administrative costs and establish a public fund for community outreach, education and cleanup programs.

Yet this bill holds the promise of keeping our island clean, healthy and safe and we need to finish the job. As mandated by the ordinance, the Department of Environmental Management (DEM) will form a working group that will include a variety of viewpoints to prepare administrative rules for implementation of the ordinance within 180 days of

The Honorable Dominic Yagong
and Members of the County Council
January 17, 2012
Page 2

the date it takes effect, which will be one year from its signing. Public hearings will be held before the new rules are implemented, and the prohibition of bags at checkout counters will not begin until one year after the bill takes effect.

My signing of this bill today also presents opportunities for the broader expression of our County's commitment to Zero Waste. I look forward to the Council's cooperation and adoption of an organics recycling bill and a recyclables hauling bill that will further our efforts along the path to Zero Waste.

In the end, this bill is not about plastic bags, politics or the Hawaii County Council. It's about protecting our beautiful island. While I may have preferred a slightly different version, I will sign Bill 17, Draft 2 because it is about the values we hold as a community to provide a positive future for our children. It is a solemn reminder that we are responsible for the decisions we make today for a better tomorrow, and that we all must be mindful of the responsibilities we have as trustees of the land to do everything we can to protect our Hawaii Island home.

Aloha,

A handwritten signature in black ink, appearing to read 'William P. Kenoi', followed by a period.

William P. Kenoi
MAYOR

Enclosure

William P. Kenoi
Mayor

Walter K.M. Lau
Managing Director



Dora Beck, P.E.
Acting Director

County of Hawai'i
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
25 Aupuni Street • Hilo, Hawai'i 96720
(808) 961-8083 • Fax (808) 961-8086
http://co.hawaii.hi.us/directory/dir_envmng.htm

December 20, 2012

COUNTY CLERK
COUNTY OF HAWAI'I
25 AUPUNI STREET
HILO, HI 96720

**SUBJECT: COUNTY OF HAWAI'I DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE RULES, ARTICLE IV
RULES RELATING TO PLASTIC BAG REDUCTION**

In accordance with Section 91-4 of the Hawai'i Revised Statutes, I am transmitting three (3) originals of the Hawai'i County Department of Environmental Management Administrative Rules, Article IV, Rules relating to Plastic Bag Reduction as approved on December 19, 2012. We have also enclosed four (4) copies as requested by your department.



Dora Beck, P.E.
Acting Director

enclosures

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Adoption of Article IV
Rules Relating to Plastic Bag Reduction

SUMMARY

1. Article IV, entitled "Rules Relating to Plastic Bag Reduction", is adopted to read as follows:

COUNTY OF HAWAII
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE RULES

ARTICLE IV

RULES RELATING TO PLASTIC BAG REDUCTION

CHAPTER 1 - General Provisions

Section 1.01 - Title

Section 1.02 - Purpose

Section 1.03 - Definitions

CHAPTER 2 - Plastic Bag Restrictions

Section 2.04 - Prohibition

Section 2.05 - Permissible bags

Section 2.06 - Reusable bags and paper bags

CHAPTER 3 - Enforcement

Section 3.07 - Notice of violation and order

Section 3.08 - Judicial enforcement of order

Section 3.09 - Administrative fines

Section 3.10 - Joint and several assessments

Section 3.11 - Other legal remedies

"ARTICLE IV Plastic Bag Reduction

CHAPTER 1 – General Provisions

Section 1.01 - Title. The rules of this chapter shall be known as the "Rules Relating to Plastic Bag Reduction".

Section 1.02 – Purpose. These rules shall govern administrative procedures and enforcement of Chapter 14, Article 20, Hawai'i County Code.

Section 1.03 – Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, the words and phrases used herein are defined as follows:

"Business" means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, or any other legal entity, and includes independent contractors associated with the business. Exempted from these rules are organizations classified under Section 501 (c) of the United States Internal Revenue code or non-incorporated community booster organizations.

"Commission" means the Environmental Management Commission.

"Continuing violation" means any violation that continues beyond the time for correction as set forth in any order of the director.

"Days" means calendar days unless otherwise specified.

"Department" means the department of environmental management.

"Director" means the director of the department of environmental management or the director's designated representatives.

"Mil Thickness" means a unit of measurement that is equal to .001" or "one one-thousandth of an inch". In the United States, the gauge or thickness of a plastic bag is measured by mils.

"Notice of violation and order" means a document signed by the director, identifying that a business is not in compliance with Chapter 14, Article 20, Hawai'i County Code, or these rules, and specifies corrective action and may assess fines, as provided by Chapter 14, Article 20, Hawai'i County Code, and these rules.

"Plastic checkout bag" means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and that is made from non-compostable plastic or compostable plastic, and is not specifically designed and manufactured for multiple re-use.

"Prescription drug" means the same as defined in section 461-1, Hawai'i Revised Statutes, as amended.

"Reusable bag" means a bag that is specifically designed and manufactured for multiple re-use and is:

- (1) Made of cloth or other washable fabric, or
- (2) Made of paper specifically designed for multiple and long term use.

"Single-use" means a bag that is specifically designed and manufactured for one-time use, normally for transporting groceries or other products. Plastic bags that are less than 3 mils thickness are considered single-use.

"Violation" means the failure of any business to comply with these rules or the provisions of Chapter 14, Article 20, Hawai'i County Code. In situations like a farmer's market where both the business owner and the independent contractors must comply, both entities are responsible for the violation.

"Violator" means any business that is responsible for the violation.

CHAPTER 2 – Plastic Bag Restrictions

Section 2.04 - Prohibition. Businesses are prohibited from providing single use plastic checkout bags to their customers for the purpose of transporting groceries or other goods, subject to the following transitional purchase exception for the first year. Businesses may make plastic checkout bags available for purchase for one calendar year after the effective date of Ordinance 12-1.

Section 2.05 - Permissible bags. The following types of plastic bags, provided by a business for the uses stated herein, shall not be subject to the prohibition set forth in section §2.04 of these rules:

- (1) Bags without handles, designed and used solely for protection of food products, protection of property or for preventing contamination including, but not limited to, bags for: raw meat, poultry, seafood, frozen foods, deli foods and unpackaged bakery items.
- (2) Bags without handles, designed and used solely for self-service packing of non-prepackaged food items sold in bulk including, but not limited to, bags for: fruits, vegetables, nuts, grains, cereal, flour, rice and candy.
- (3) Bags designed and used solely for protecting garments when provided by a garment cleaning business or formal wear retailer.
- (4) Bags without handles, designed and used for small retail items including, but not limited to jewelry, buttons, beads, ribbon and hardware items like nails, nuts and screws.
- (5) Bags without handles, used for dispensing prescription drugs.

Section 2.06 - Reusable bags and paper bags. (a) Businesses may make reusable bags and/or paper bags available for sale, or without charge, to customers for the purpose of transporting groceries or other goods.

(b) Bags made from plastic that are washable and are specifically designed and manufactured for multiple re-use and are at least 3.0 mils thick will be acceptable as a reusable bag.

CHAPTER 3 - Enforcement

Section 3.07 - Notice of violation and order. (a) The director shall determine whether a business is in violation of the requirements of Chapter 14, Article 20, Hawai'i County Code or these rules.

(b) If the director determines that a business is in violation of Chapter 14, Article 20, Hawai'i County Code or these rules, the director may issue a notice of violation and order. The initial notice of violation and order shall serve as the one (1) written warning and shall not impose fines but shall warn that fines shall be imposed if the order is not obeyed.

(c) The director will have responsibility for enforcement of Chapter 14, Article 20, Hawai'i County Code or these rules through the issuance and service of the notice of violation and order upon the business at any of its locations where the violation occurred, or upon any authorized agent of the business. Service shall be in person or by certified mail, return receipt requested. For purposes of these rules, service of the notice of violation and order shall be deemed complete either upon personal delivery or upon mailing.

(d) A notice of violation and order shall state the date of the notice, the name and address of the violator, provision of law violated, a brief description of the violation, the location of the violation, including tax map key number or street address, and date of the violation.

(e) The notice of violation and order shall state that the order to stop further violation shall become effective immediately and will become final unless an appeal is properly filed with the commission. The filing of an appeal with the commission shall not, in itself, stay the effect of any notice of violation and order issued by the director under these rules.

(f) If the business fails to obey the order to stop further violation, the director may issue a second notice of violation and order which shall reiterate the substance of the first notice of violation and order, with such updates as may be appropriate under the circumstances, and shall include an order imposing fines as provided by these rules. The director may issue further notices of violation and order as may be necessary to effect compliance with these rules and the County Code.

(g) A business may appeal a notice of violation and order issued pursuant to this section by filing with the commission a notice of appeal no later than thirty (30) days from the date of the notice of violation and order, in accordance with the commission's rules of practice and procedure. The order shall become final if an appeal is not properly filed within thirty (30) days from the date of the notice of violation and order.

Section 3.08 - Judicial enforcement of order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any notice of violation and order, including seeking a temporary, preliminary or permanent injunction. Where a civil action has been instituted to enforce a civil fine imposed by an order, the director need only show that the notice of violation and order was served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid.

Section 3.09 - Administrative fines. (a) In addition to correcting a violation under this Article, the violator shall pay to the County an initial civil fine in the amount of \$250 per day for the second notice of a violation, and \$500 per day for the third notice of a violation. For subsequent violations, the fine shall be \$1,000 per day.

(b) Fines assessed for a violation shall be payable whether a violation is corrected before or after the order imposing fines becomes final.

(c) The director may waive the daily fines prescribed under subsections (a) and (b), in whole or in part, after receiving a written request for a waiver and considering the following:

- 1) The nature and egregiousness of the violation;
- 2) The duration of the violation;
- 3) The type and size of the business in violation;
- 4) The number of repeat violations;
- 5) Any effort taken by the business to correct the violation;
- 6) Reasons for any delay in the correction of the violation; and
- 7) Other extenuating circumstances.

Section 3.10 - Joint and several assessments. The penalties in these rules may be assessed against all violators, jointly or severally, and the director may proceed against such persons as the director may choose.

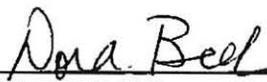
Section 3.11 - Other legal remedies. The enforcement provisions of this chapter are in addition to remedies provided by the Hawai'i County Code and other law, and do not preclude other civil or criminal penalties or injunctive relief."

2. **Effective Date.** Chapter 6, Rules Relating to Plastic Bag Reduction, shall take effect ten days after filing with the Office of the County Clerk, or on the effective date of County Ordinance No. 12-1 if the latter occurs later.

3. **Severability.** In the event any portion of these rules is declared invalid, such invalidity shall not affect the other parts of these rules.

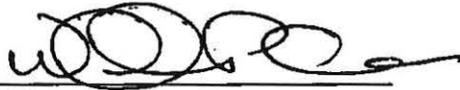
ADOPTED THIS 18th DAY OF December, 2012, at 4:00 p.m.,
Hilo, Hawai'i.

COUNTY OF HAWAI'I



DORA BECK, P.E.
Acting Director
Department of Environmental Management

APPROVED:



WILLIAM P. KENOI
Mayor
County of Hawai'i

Approved this 19th day of
December, 2012.

APPROVED AS TO FORM
AND LEGALITY:

 12/15/12

Deputy Corporation Counsel
County of Hawai'i

I hereby certify that the foregoing rules were received and filed in my office this ____ day of
_____, 20__

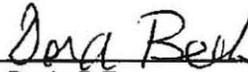
County Clerk
County of Hawai'i

CERTIFICATION

I, DORA BECK, Acting Director of the Department of Environmental Management, County of Hawai'i, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules Relating to Plastic Bag Reduction which were adopted on the 18th day of December, 2012, following public hearings that closed on the 12th day of December, 2012, and which were filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing Rules, which notice included the substance of such Rules, was published in the Hawai'i Tribune Herald and West Hawai'i Today newspapers on November 4, 2012.



Dora Beck, P.E.

Acting Director

Department of Environmental Management



COUNTY OF HAWAI'I
DEPT. OF ENVIRONMENTAL MANAGEMENT
SOLID WASTE DIVISION – RECYCLING SECTION
www.hawaii zerowaste.org



Plastic Bag Reduction Ordinance Frequently Asked Questions (FAQ)

This FAQ has been prepared by the County of Hawai'i Department of Environmental Management (DEM) to clarify the rules relating to the Plastic Bag Reduction Ordinance.

Starting January 17, 2013, the County of Hawai'i's new Plastic Bag Reduction Ordinance 12-1 became effective. This new law affects all businesses in Hawai'i County. The purpose of the law is to reduce the use of plastic checkout bags and encourage the use of more environmentally preferable alternatives such as reusable bags or paper bags.

Under the law, a business is defined as *“any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, or any other legal entity, and includes independent contractors associated with the business. Exempted from these rules are organizations classified under Section 501 (c) of the United States Internal Revenue code or non-incorporated community booster organizations.”*

During the first year of the new law beginning January 17, 2013, businesses may offer plastic checkout bags for purchase but may not provide them to customers for free. Each business determines how much to charge for their plastic checkout bags and any such fees are the property of the business.

The law will allow plastic bags without handles that are designed and used solely for protection of food products such as raw meat, poultry, seafood, frozen foods, deli foods, fruits, vegetables, nuts, grains, cereal, flour, rice and candy. It also allows for plastic bags designed and used for small retail items like jewelry, buttons, beads, ribbon and hardware items such as nails, nuts and screws. Plastic bags used to protect laundry and dry cleaning will be permitted as well. Biodegradable or compostable plastic checkout bags are not permissible under the law.

In the second year starting January 17, 2014, businesses may not provide individual single-use plastic checkout bags to customers for free or for purchase at the point-of-sale. Bag suppliers may still offer packaged bulk quantities of single-use plastic bags for sale. The law does not require exempted non-profits to show proof of non-profit status in order to purchase bulk quantities of plastic bags for fundraisers.

Public hearings to adopt administrative rules for implementing the law were held in Kailua-Kona and Hilo and final adoption of the rules was completed in January 2013. For updates and for a copy of the rules, please visit our website <http://www.hawaii zerowaste.org/reuse/plastic-bag-reduction-ordinance>.

To assist businesses with communications to their customers about the new law, the County has developed public outreach and education initiatives. Some of the outreach tools include templates for banners, posters and leaflets that can be downloaded from our website and may be distributed to your customers and/or store personnel. The County has also produced a limited supply of banners, posters, buttons and leaflets that can be picked up from both our offices in Hilo and/or Kona.

Frequently Asked Questions & Answers

- 1. How much does a business charge per plastic checkout bag?**
Each business decides how much to charge for a plastic bag.
- 2. Where does the money go that the business charges for the plastic checkout bag?**
Each business makes this decision. They can keep the money to offset the costs of the bags or they can donate to a charity. The County does not receive any of these monies.
- 3. Is the money charged for the plastic checkout bag given to a charity?**
This decision is to be determined by each business.
- 4. Does a business have to show a charge for the plastic bags on the customer receipts?**
Yes. Businesses must have a method to verify that they are charging for the plastic checkout bags.
- 5. How does the plastic checkout bag charge affect my taxes? Is it subject to taxes and revenue?**
Businesses should consult with their accountant or tax attorney.
- 6. Is this law a total plastic bag ban?**
No. This is a plastic bag reduction law; not a ban. The purpose of the law is to reduce the number of single use plastic bags by prohibiting their distribution at store checkouts and encourage the usage of reusable bags. The law provides for permissible plastic bags (without handles) for retail items such as meat, produce, bulk food items, garments and prescription drugs.
- 7. Can I, as a shopper, be fined for using a plastic checkout bag?**
No, this law is applicable only to businesses. Consumers are encouraged to shop with reusable bags and are not subject to any penalties or enforcement from the County.
- 8. Is a non-profit agency able to produce plastic bags and give them to any retailer for the retailer to hand out for free?**
No. If the non-profit is using the plastic bags for checkout, they do not need to charge a fee. If a business is using the plastic bag for checkout, they are required to charge a fee. The source of the plastic bag does not affect this rule.
- 9. Is a merchant able to charge a single customer \$0.01 for 10 or more plastic checkout bags?**
Technically, yes. As stated in the answer to FAQ No. 1, each business decides how much to charge for a plastic checkout bag. However, this practice is discouraged. Also, the law only allows this option for the first year. Starting January 17, 2014, plastic checkout bags are not permissible. Customers should check with each business to find out how much each bag costs.
- 10. What kind of bags are retailers allowed to provide to customers?**
Businesses and retail establishments may provide a plastic checkout bag but must charge a fee during the first year of the law. They may also provide paper bags or reusable bags and the decision to charge a fee for these types of bags and how much is up to each business.
- 11. Is it okay if customers bring plastic bags to the store to reuse?**
This decision would be made by the business or retailer. The law does not restrict consumers or customers from doing so. Whether or not a business provides a "rebate" for customer-provided plastic or reusable bags is a decision for each business.

- 12. Are all plastic bags that are greater than 3.0 mils thick considered to reusable?**
The rules specifically states "Bags made from plastic that are washable and are specifically designed and manufactured for multiple re-use and are at least 3.0 mils thick will be acceptable as a reusable bag."
- 13. Plastic bags that are greater than 3.0 mils thick that are washable are considered reusable. Does it have to be washing machine washable or is sanitary spray and wipes okay?**
Any method of washing or cleaning is acceptable. For some helpful tips on maintaining germ-free reusable bags check out the flyer by the Nutrition Education for Wellness Program of the UH Cooperative Extension Service at http://www.ctahr.hawaii.edu/new/resources/GRUB_flyer.pdf
- 14. Are biodegradable plastic checkout bags exempt?**
No. The law specifically applies to all types of plastic including biodegradable or compostable plastic and other plastic checkout bags made from fossil fuels. Biodegradable plastics are not known for breaking down in the natural environment.
- 15. May a business incur the cost of the plastic bags instead of charging it to their customer?**
No.
- 16. Farmers Market manager is a 501 (c) non-profit and wants to know if all the vendors are afforded the same status?**
No. If the vendors are independent contractors, they must comply with the ordinance unless they are also a 501 (c) non-profit business.
- 17. Mary Kay consultant wants to know if independent consultants are affected by the Law.**
Yes, unless they are a non-profit classified under Section 501 (c) of the United States Internal Revenue code or non-incorporated community booster organization. "Business" means any commercial enterprise or establishment including sole proprietorships, joint ventures, partnerships and corporations or any other legal entity, and includes independent contractors associated with the business.
- 18. Does the law mandate a non-profit (501(c)) organization show proof of non-profit status in order to purchase bulk quantities of plastic bags for their fundraiser?**
No.
- 19. My dentist office provides a plastic "goodie" bag with dental care items. Is that permissible?**
Yes, since the plastic bag is not being used as a "checkout bag", this is acceptable. We would prefer they provide a reusable bag instead.
- 20. Can a plastic bag supplier or wholesaler sell packaged bulk quantities of single-use plastic bags, as long as they aren't selling them at the checkout individually?**
Yes.
- 21. What are the penalties if a business that violates the law?**
Rules have been adopted that detail the enforcement procedures and these are available from the County website at <http://www.hawaiiizerowaste.org/reuse/plastic-bag-reduction-ordinance>. If a business has a first violation, a written warning letter will be issued. A second violation may result in a civil fine of \$250 per day; third violation may result in a civil fine of \$500 per day and; subsequent violations may result in civil fines of \$1,000 per day.
- 22. Who can I contact if I have more questions or suggestions?**
Contact the County Solid Waste and Recycling Office at 961-8270 or bring-ur-bag@co.hawaii.hi.us.