

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.

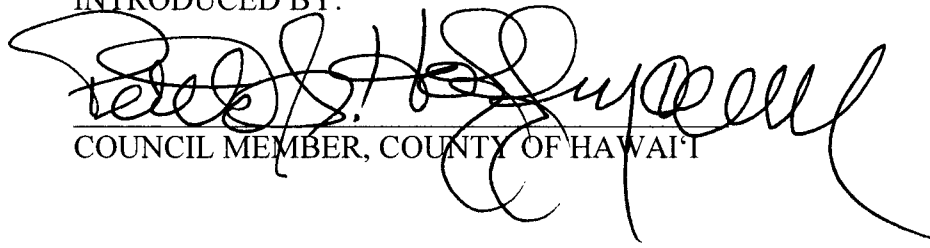
**Section 14-\_. Exemptions.**

- (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

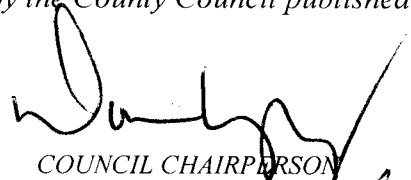

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda		X		
Onishi		X		
Pilago	X			
Smart	X			
Yagong				X
Yoshimoto		X		
	5	3	0	1

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

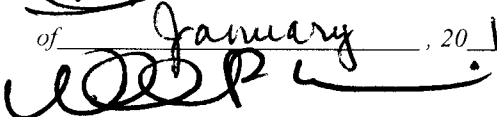
APPROVED AS TO  
FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

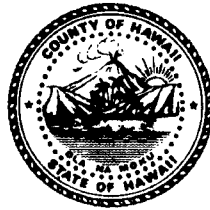
Date JAN - 3 2012

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

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

Approved/Disapproved this 17<sup>th</sup> day  
of January, 20 12.  
  
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

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

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 small dot.

William P. Kenoi  
MAYOR

Enclosure