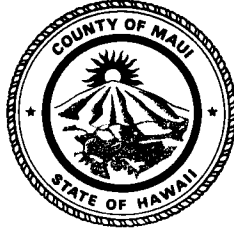


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MEMO TO: Elle Cochran, Chair
Infrastructure and Environmental Management Committee

FROM: Richelle M. Thomson
Deputy Corporation Counsel 

DATE: November 15, 2016

SUBJECT: Plastic Bag Reduction (IEM-56)

This memorandum is in response to your request of November 15, 2016, that the Department of Corporation Counsel comment on the proposed revision to the definition of "plastic bag" pursuant to Section 20.18.020, Maui County Code ("MCC").

The current definition of "plastic bag" is "a bag that is made from noncompostable plastic or compostable plastic, and is not specifically designed and manufactured for multiple reuse."

Read together, Sections 20.18.020 and 20.18.040, MCC, currently prohibit businesses from providing plastic bags to customers at the point of sale for transporting groceries or other goods unless such bags meet the definition of "reusable bag," i.e., bags "made of durable material suitable for reuse."

The proposed amended definition of "plastic bag" is "a bag that is made from nonbiodegradable or noncompostable plastic," without reference to whether such bag may be designed for reuse.

The proposed definition prohibits a subset of plastic bags considered "nonbiodegradable" or "noncompostable." By calling out such particular categories of prohibited plastic bags, a plain reading of the definition may allow other types of bags (i.e., plastic bags that are biodegradable or compostable), without regard to whether such plastic bags would be

Elle Cochran, Chair
Infrastructure and Environmental Management Committee
IEM-56
November 15, 2016
Page 2 of 2

designed for reuse. The comments made during the Committee meeting on November 14, 2016, were meant to point out this possible issue, given that the intent of the bill is to strengthen the definitions of "plastic bag" and "reusable bag."