

REQUEST FOR LEGAL SERVICES

Date: November 2, 2016
From: Elle Cochran, Chair
Infrastructure and Environmental Management Committee

TRANSMITTAL

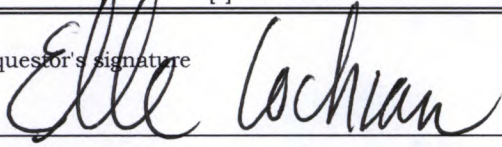
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Richelle Thomson, Esq.

Subject: AMENDING CHAPTER 20.18, MAUI COUNTY CODE, RELATING TO PLASTIC BAG REDUCTION (IEM-56)

Background Data: Attached revised proposed bill revises definitions for plastic and reusable bags; incorporates a provision relating to applicability of the chapter; repeals the reporting requirement starting in 2018; and prohibits businesses from providing plastic bags to their customers at any time, not just at the point of sale. Please include the revised hard copy in your response.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [] OTHER:

<p>Requestor's signature  Elle Cochran</p>	<p>Contact Person <u>Shelly Espeleta</u> (Telephone Extension: <u>7134</u>)</p>
--	---

☐ [] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [] RUSH (WITHIN 5 WORKING DAYS)
☐ [] PRIORITY (WITHIN 10 WORKING DAYS) ☐ [] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): Friday, November 4 at noon.
REASON: For posting on November 14 IEM meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

TO REQUESTOR: ☐ [] APPROVED ☐ [] DISAPPROVED ☐ [] OTHER (SEE COMMENTS BELOW)
☐ [] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.18, MAUI COUNTY
CODE, RELATING TO PLASTIC BAG REDUCTION

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this Ordinance is to improve the Plastic Bag Reduction Ordinance, including through the following means: (1) simplify and strengthen the definitions of "Plastic bag" and "Reusable bag"; (2) exempt plastic bags used for specified purposes from the plastic bag prohibition; (3) repeal the requirement for annual reporting by the Department of Environmental Management starting in 2018; and (4) prohibit businesses from providing prohibited plastic bags to their customers at any time, not just at the point of sale.

SECTION 2. Chapter 20.18, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"20.18.060. Applicability. This chapter does not apply to a plastic bag used for any of the following purposes: (1) to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items, inside a business by customers; (2) to contain or wrap frozen foods, meat, fish, flowers, potted plants, or other items to contain dampness; (3) to protect or transport prepared foods, beverages, or bakery goods; (4) to contain prescription medications provided by pharmacists; (5) to deliver a newspaper to a subscriber of the newspaper; (6) to hold items hung on a door handle; (7) to hold laundry, dry cleaning, or garments, including bags provided by hotels to guests to contain wet or dirty clothing; (8) to sell in packages containing multiple bags intended for garbage, pet waste, or yard waste; (9) to contain live animals, such as fish or insects sold in pet stores; or (10) to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals."

SECTION 3. Section 20.18.020, Maui County Code, is amended by amending the definition of "plastic bag" to read as follows:

"Plastic bag" means a bag that is made from nonbiodegradable or noncompostable plastic [or compostable plastic, and is not specifically designed and manufactured for multiple re-use]."

SECTION 4. Section 20.18.020, Maui County Code, is amended by amending the definition of "reusable bag" to read as follows:

"Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple re-use and [is (1)] made of cloth or other washable fabric[, or (2) made of durable material suitable for reuse]."

SECTION 5. Section 20.18.030, Maui County Code, is amended by amending subsection (B) to read as follows:

"B. [On] For the years 2011-2017, on or before September 1 of each year, the director shall submit to the council a report assessing the estimated increase in the number of business customers using recyclable paper bags or reusable bags."

SECTION 6. Section 20.18.040, Maui County Code, is amended to read as follows:

"A. Businesses are prohibited from providing plastic bags to their customers [at the point of sale] for the purpose of transporting groceries or other goods.

B. Nothing in this chapter shall preclude a business from making reusable bags or recyclable paper bags available for sale or without charge to its customers [at the point of sale] for the purpose of transporting groceries or other goods."

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This ordinance shall take effect on July 1, 2019.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

iem:misc:056abill02:ske

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.18, MAUI COUNTY
CODE, RELATING TO PLASTIC BAG REDUCTION

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this Ordinance is to improve the Plastic Bag Reduction Ordinance, including through the following means: (1) simplify and strengthen the definitions of "Plastic bag" and "Reusable bag"; (2) exempt plastic bags used for specified purposes from the plastic bag prohibition; (3) repeal the requirement for annual reporting by the Department of Environmental Management starting in 2018; and (4) prohibit businesses from providing prohibited plastic bags to their customers at any time, not just at the point of sale.

SECTION 2. Chapter 20.18, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"20.18.060. Applicability. This chapter does not apply to a plastic bag used for any of the following purposes: (1) to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items, inside a business by customers; (2) to contain or wrap frozen foods, meat, fish, flowers, potted plants, or other items to contain dampness; (3) to protect or transport prepared foods, beverages, or bakery goods; (4) to contain prescription medications provided by pharmacists; (5) to deliver a newspaper to a subscriber of the newspaper; (6) to hold items hung on a door handle; (7) to hold laundry, dry cleaning, or garments, including bags provided by hotels to guests to contain wet or dirty clothing; (8) to sell in packages containing multiple bags intended for garbage, pet waste, or yard waste; (9) to contain live animals, such as fish or insects sold in pet stores; or (10) to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals."

SECTION 3. Section 20.18.020, Maui County Code, is amended by amending the definition of “Plastic bag” to read as follows:

““Plastic bag” means a bag that is made from nonbiodegradable or noncompostable plastic [or compostable plastic, and is not specifically designed and manufactured for multiple re-use].”

SECTION 34. Section 20.18.020, Maui County Code, is amended by amending the definition of “Reusable bag” to read as follows:

““Reusable bag” means a bag with handles that is specifically designed and manufactured for multiple re-use and [is (1)] made of cloth or other washable fabric-[, or (2) made of durable material suitable for reuse].”

~~SECTION 4. Chapter 20.18, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:~~

~~“**20.18.125060. Applicability.** This chapter does not apply to a plastic bag used for any of the following purposes: (1) to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items, inside a business by customers; (2) to contain or wrap frozen foods, meat, fish, flowers, potted plants, or other items to contain dampness; (3) to protect or transport prepared foods, beverages, or bakery goods; (4) to contain prescription medications provided by pharmacists; (5) to deliver a newspaper to a subscriber of the newspaper; (6) to hold items and hung? on a door handle; (7) to hold laundry, dry cleaning, or garments, including bags provided by hotels to guests to contain wet or dirty clothing; (8) to be soldsell in packages containing multiple bags intended for garbage, pet waste, or yard waste; (9) to contain live animals, such as fish or insects sold in pet stores; or (10) to transport chemical pesticides, drain cleaning chemicals, or other caustic chemicals.”~~

SECTION 5. Section 20.18.030, Maui County Code, is amended by amending subsection (B) to read as follows:

“B. [On] For the years 2011-2017, on or before September 1 of each year, the director shall submit to the council a report assessing the estimated increase in the number of business customers using recyclable paper bags or reusable bags.”

SECTION 6. Section 20.18.040, Maui County Code, is amended to read as follows:

“A. Businesses are prohibited from providing plastic bags to their customers [at the point of sale] for the purpose of transporting groceries or other goods.

B. Nothing in this chapter shall preclude a business from making reusable bags or recyclable paper bags available for sale or without charge to its customers s [at the point of sale] for the purpose of transporting groceries or other goods.”

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This ordinance shall take effect ~~upon its approval~~ on July 1, 2019.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

iem:misc:056abil10¹²:ske