

## **PLASTIC BAG REDUCTION ORDINANCE FREQUENTLY ASKED QUESTIONS**

- Q1. When does the plastic bag reduction ordinance take effect?**
- A.** The effective date of the ordinance is January 11, 2011. The Maui County Council passed Bill No. 69 (2008) on August 22, 2008, and Mayor Charmaine Tavares signed into law Ordinance No. 3587 on August 25, 2010. The ordinance is incorporated into the Maui County Code in Title 20 Environmental Protection, Chapter 20.18 Plastic Bag Reduction.
- Q2. What types of plastic bags are prohibited from being used under this ordinance?**
- A.** Any single use plastic bag, under 3 mils (75 microns) thick, that is provided to customers at the point of sale for the purpose of transporting groceries or other goods.
- Q3. Are there Administrative Rules to implement this law?**
- A.** Yes, the FINAL DRAFT administrative rules are posted on the Maui County website: [www.mauicounty.gov](http://www.mauicounty.gov), under the "Plastic Bag Reduction" link in the left-most column. The administrative rules cannot be adopted until after the effective date of the ordinances, the Mayor signs them, and they are filed with the County Clerk after which there is a 10-day filing period. Therefore the effective date of the Administrative Rules will be after January 21, 2011.
- Q4. What are the criteria for permissible plastic bags?**
- A.** Specifically designed and manufactured for multiple re-use, has handles and at least 3 mils thick.
- Q5. What types of plastic bags are permissible that are not used for the purposes of transporting groceries or other goods?**
- A.** Under Section 17-105-5 Permissible bags. The following types of plastic bags, provided other than at the point of sale and not for the purpose of transporting groceries or other goods, shall not be subject to the prohibition set forth in 17-105-4:
- 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, and unpackaged bakery items
  - 2) Bags without handles designed and used solely for self-service packing and non-packaged 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.
  - 4) Bags used for dispensing prescription drugs that are not provided in any other container or receptacle.

- Q6. Are businesses required to have paper bags available at the point of purchase?**
- A. No, there is no language in the ordinance that requires paper bags be available at the point of sale. The intent of the ordinance is to regulate the use of plastic bags and encourage the use of reusable bags.
- Q7. Can a businesses charge for paper bags?**
- A. Yes, it is at the discretion of the business.
- Q8. Can businesses charge for reusable plastic bags (3 mils and above)?**
- A. Yes, it is at the discretion of the business.
- Q9. Do paper bags have to be made of recycled paper and have to be labeled?**
- A. No, there is no language in the ordinance that requires paper bags be used, that the bags be labeled, or that the paper bags be reusable or recyclable.
- The stated purpose of the Ordinance is to encourage the use of environmentally preferable alternatives to plastic bags, such as reusable bags or paper bags. The Ordinance does not regulate the use of paper bags: hence the Rules do not regulate them, either.
- Q10. What is the intent of Ordinance No. 3587 (Plastic Bag Reduction Ordinance)?**
- A. Ordinance No. 3587 is codified in Maui County Code 20.18.010: The stated purpose is to encourage the use of environmentally preferable alternatives to plastic bags such as reusable bags or paper bags. The use of plastic bags must be regulated to preserve the health, safety, welfare, and scenic and natural beauty of Maui. The production and use of plastic bags have significant impacts on the environment, including, but not limited to:
- contributing to unsightly litter (blight),
  - creating an additional burden on landfills,
  - contributing to potential death of marine animals through ingestion and entanglement, and
  - requiring the use of millions of barrels of crude oil for their manufacture
- Q11. Who is responsible for complying with this ordinance?**
- A. Any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, whether for profit or non-profit. All employees of businesses, or any independent contractors associated with the businesses, that provide plastic bags to their customers at the point of sale for the purpose of transporting groceries other goods.
- Q12. What is the procedure for enforcing the penalties for non-compliance?**

- A.** The process generally follows: 1) A warning letter signed by the Director is sent to the business, or any authorized agent of the business, stating they are not in compliance with the ordinance. 2) The Director, after one written warning, may issue a notice of violation and order via certified mail. The order may require that the violator stop further violation, pay a fine before a certain date, and pay an additional fine for each day the violation continues.

**Q13. Can my business be fined for non-compliance?**

- A.** Yes. A civil fine of \$500 for each day of violation. In the case of continuing violation, the daily fine shall be doubled on the first day of each thirty-day period after the end of the time to take corrective action, up to a maximum of \$1000 per day.

**Q14. What is the appeal process?**

- A.** A business may appeal a notice of violation by filing with the board of variances and appeals. A notice of appeal must be made no later than thirty days from the date of service of the notice of violation and order.

**Q15. Who do we call if we know a business is not complying with the law?**

- A.** The County of Maui, Department of Environmental Management, Solid Waste Division, Recycling Section at: (808) 270-7880 or email: [recycle.maui@mauicounty.gov](mailto:recycle.maui@mauicounty.gov).

**Q16. My business has plastic t-shirt bags. What should I do with these bags?**

- A.** There is no “grandfathering” clause, therefore, no banned bags will be allowed after the ordinance effective date. Please call the Solid Waste Division Recycling Section at (808) 270-7880 for information on recycling the back stock of plastic bags.

**Q.17. Are plastic shopping bags banned at events, festivals?**

- A.** Yes. Plastic shopping bags are banned at all events, such as swap meets, fairs, and festivals since they are being provided at the point of sale for the purpose of transporting groceries or other goods.

**Q.18. Are TRASH bags okay to use?**

- A.** Yes. Trash bags are not banned, unless they are being provided at the point of sale for the purpose of transporting groceries or other goods and they are under 3 mil thickness.

**Q.19 As a restaurant owner, am I allowed to give out plastic bags to customers for take out food?**

- A.** No. Restaurants are businesses and included in the ban, and therefore cannot give out plastic bags at the point of sale for transporting goods.