CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **10 (2012), CD1, FD1**
Proposed (EM)(Version B)

A BILL FOR AN ORDINANCE

RELATING TO THE USE OF BAGS PROVIDED TO CUSTOMERS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose: The purpose of this ordinance is to regulate the use of non-biodegradable plastic bags and certain other bags provided to customers.

Council Findings: The United States Environmental Protection Agency has reported that plastics now make up more than 12 percent of the municipal solid waste stream, a dramatic increase from 1960, when plastics were less than 1 percent of the waste stream. In 2010, 31 million tons of plastic waste was generated, which represented more than 12.4 percent of the total tonnage of municipal solid waste. One pervasive use of plastic has been the plastic bags distributed to retail and wholesale customers to facilitate their carrying of merchandise away from the point of sale (checkout).

In Honolulu, the production of non-recyclable paper and non-biodegradable plastic bags and their distribution to customers at the point of sale have had significant impacts on the environment, including, but not limited to: contributing to unsightly litter on our beaches, parks, and streets; creating an additional burden on our landfill; contributing to the potential death of marine animals through ingestion and entanglement; and polluting the air when they are burned. The manufacture of non-biodegradable plastic bags also diverts millions of barrels of crude oil from other uses, increasing the cost of those other uses.

Currently, Honolulu is the only county in the State that has not yet implemented any regulation on bags distributed to customers at checkout. The Council finds that to preserve the health, safety, welfare, and scenic and natural beauty of the City and County of Honolulu, steps must be taken now to ban the distribution of both non-recyclable paper and non-biodegradable plastic bags at checkout. The Council further finds that the City, businesses, and customers must work together to decrease the number of non-recyclable paper and non-biodegradable plastic bags going into our waste stream, and the best way to do this is by implementing a ban on these types of bags.

This Ordinance implements a total ban on all non-recyclable paper and non-biodegradable plastic bags. These bags are particularly problematic because, unlike biodegradable plastic bags and recyclable paper bags, which eventually break down or can be recycled, the effects of non-biodegradable and non-recyclable bags on the environment can continue for years until they are destroyed.

A deferred effective date has been provided to permit current inventories of non-biodegradable plastic and non-recyclable paper bags to be depleted before the ban takes effect.

SECTION 2. Chapter 9, Revised Ordinances of Honolulu 1990 ("Collection and Disposal of Refuse"), as amended, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"**Article __. Regulation of Bags Provided to Customers**

Sec. 9-__.1 Definitions.

Unless otherwise expressly stated, the following terms shall have the following meanings:

"Biodegradable" means a substance that can be broken down in the environment by natural processes.

"Business" means any commercial enterprise or establishment operating in the City and County of Honolulu, including an individual proprietorship, joint venture, partnership, corporation, limited liability company, or other legal entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

"Customer" means a person who purchases merchandise from a business.

"Department" means the department of environmental services.

"Director" means the director of environmental services or the director's designee.

"Mil" means one thousandth of one inch.

"Non-biodegradable" means a substance that cannot be broken down in the environment by natural processes.

"Non-recyclable paper bag" means a paper bag that is not a recyclable paper bag.

"Plastic bag:"

(1) Means a bag that is made from non-biodegradable plastic, and is not specifically designed and manufactured for multiple re-use;

(2) This term does not include:

(A) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;

(B) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;

(C) Bags used to protect or transport prepared foods, beverages, or bakery goods;

(D) Bags provided by pharmacists to contain prescription medications;

(E) Newspaper bags for home newspaper delivery;

(F) Door-hanger bags;

(G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;

(H) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

(I) Bags used to contain live animals, such as fish or insects sold in pet stores; or

(J) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.

"Recyclable paper bag" means a paper bag that: (1) is one hundred percent recyclable, (2) contains a minimum of forty percent post-consumer recycled content,

and (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bags.

"Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of: (1) cloth or other washable fabric; or (2) durable material suitable for reuse, including plastic that is at least 2.25 mils thick.

Sec. 9-__.2 Ban on non-biodegradable plastic and non-recyclable paper bags.

Businesses shall be prohibited from providing non-biodegradable plastic and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise. Nothing in this article shall preclude a business from making reusable bags, bags made of biodegradable plastic or recyclable paper bags available for sale or without charge to customers at the point of sale for the purpose of transporting such items.

Sec. 9-__.3 Penalties and injunctive relief.

(a) Any business violating any provision of this article or any rule adopted pursuant to this article shall be:

(1) Ordered to discontinue the distribution of bags prohibited by this article at the point of sale; and

(2) Subject to a civil fine of not less than $100 nor more than $1,000 for each day of violation.

(b) The director may institute a civil action in any court of competent jurisdiction for injunctive or other relief to correct or abate violations of this article or any rule adopted pursuant to this article, to collect administrative penalties, or to obtain other relief.

Sec. 9-__.4 Rules.

The director of environmental services shall adopt rules pursuant to HRS Chapter 91 regarding the implementation, administration and enforcement of this article."

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SECTION 3. This ordinance shall take effect on July 1, 2015.

INTRODUCED BY:

Ernest Martin

Tulsi Gabbard

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DATE OF INTRODUCTION:

February 9, 2012
Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

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Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

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PETER B. CARLISLE, Mayor
City and County of Honolulu