

DRAFT ORDINANCE TO BAN RECYCLABLES FROM LANDFILLING  
7/18/23 GEORJEAN ADAMS

An [DRAFT] ordinance amending THE COUNCIL OF THE COUNTY OF HAWAII CHAPTER 20, ARTICLE 3, OF THE HAWAII COUNTY CODE 1983 (2016 EDITION AS AMENDED), RELATING TO PROHIBITION OF LANDFILLING OF DESIGNATED RECYCLABLE WASTES.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

**SECTION 1. Purpose.** The Council of the County of Hawai'i on December 19, 2007, adopted Resolution No. 356-07, Draft 2, which stated the County shall embrace and adopt the zero-waste philosophy of solid waste management. Waste diversion is the prevention and reduction of generated waste through source reduction, recycling, reuse and composting, which creates a host of environmental, financial and social benefits, including conserving energy, reducing disposal costs, and reducing the burden on landfills and other waste disposal methods.

The County has shown the feasibility of diverting, recycling and/or reusing waste resources for certain recyclable wastes in ways that meet sustainability goals, but those markets and technologies change over time. This ordinance is in accordance with Resolution No. 356-07, Draft 2, and the 2019 Integrated Solid Waste Management Plan that commits the County to divert, as much as feasible, commercial and municipal solid waste, including but not limited to, green waste, metals, plastics, paper, paperboard, and glass, to help achieve goals related to climate resiliency, renewable energy, sustainable agriculture, and zero waste.

**Section 20-01-03 Definitions**

"Designated Recyclable Waste" is waste that is defined by department rule that is prohibited from disposal in a County sanitary landfill because the director finds that a) collection locations and/or services are available to designated recyclable waste generators at a price that is less than the cost of solid waste disposal [how much less? current greenwaste only 25% tipping fee], b) the life cycle environmental costs are less than or the same as those of landfilling for the designated recyclable waste, and c) diversion from landfill for the designated recyclable waste would represent a reasonable [>5% or more?] reduction in landfill volume. The list of designated recyclable wastes is expected to change as criteria situations change over time.

"Designated Recyclable Waste Generator" is any person or entity that is subject to department rules issued under this section [20-07-03(a)] that discards designated recyclable wastes.

**Section 20-03-01. Disposal of solid waste.** Every owner or occupant of any residence or business or premises within the County shall dispose of solid waste in a County approved SWD facility in accordance with department rules, unless prohibited by department rule.

**Section 20-07-03 Prohibition of Landfill of Designated Recyclable Wastes**

a) Persons identified by department rule are prohibited from intentionally disposing of, or causing to be disposed of, designated recyclable wastes in Hawaii County landfill(s).

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1) The department shall identify categories of persons who are designated recyclable waste generators that can reasonably be expected to be able to access collection locations and/or services at a price that is less than the cost of solid waste disposal. Categories of persons and effective dates shall be modified as feasibility conditions warrant. Categories of persons subject to the prohibition of this section may include large businesses, multifamily subdivisions, county facilities, schools, nonprofits, small businesses, and residents who have access to transfer stations and/or curbside collection of designated recyclable wastes.

b) The department shall issue rules to allow small businesses and nonprofits to use designated county transfer stations for deposit of recyclable materials currently accepted at the transfer station for residents. The department may require a reasonable fee and/or license of a small business or nonprofit to use a transfer station for purposes of recycling. Small businesses and nonprofits are prohibited from disposing of trash at transfer stations, unless authorized by the director.

c) The department shall by rule require reporting from large commercial and governmental organizations on an annual basis to document their waste reduction and/or landfill diversion programs, including total volume waste and percent of each designated recyclable waste generated and methods they employed to achieve waste reduction and diversion from landfill.  
*[allow or require reports on all wastes reduced/diverted whether or not designated?]*

**c) Exemptions**

1) Undue hardship. Undue hardship includes, but is not limited to, situations unique to the designated recyclable waste generator that generally do not apply to other persons in their category. Application for undue hardship may be made to the director *[mirror that for polystyrene HCC Ch 20-05-03(b)]*

2) Occasional, small volume contamination of solid waste with designated recyclable wastes disposed in routine trash intended for landfill is considered exempt if the generator can show that it maintains an active program of education and makes collection services available for those who contribute to their trash. *[Require education and collection programs by large businesses and subdivisions in HCC?]*

3) Subsets of designated recyclable wastes that are not suitable for recycling as approved by the director. *[examples – contaminated, with hazardous materials, hard to clean, presenting physical handling characteristics – although this can be part of the definition of the designated recyclable]*

4) temporary exemptions may be published by the director when collection facilities or transport are not available or other short term market disruptions arise that are not under the control of the designated recyclable waste generator. *[eg, emergencies, weather, labor shortages, equipment breakdown, eruptions, 3<sup>rd</sup> party recyclers go out of business or become subject to local bans.]*

**Section 20-07-04 Performance Targets for the Department**

a) The department shall report annually to the Council its plans and progress to reduce the volume [weight?] according to less than 100 tons/day disposed in county landfills by [year]

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b) The department may accomplish the reduction in volume accepted by county landfills with various means, but is encouraged to use the following priority order:

1. reduction in the generation of waste by reducing the use of a product, as long as it does not result in substituting products that would present greater net adverse life cycle impact. [e.g., *Educate consumers to use only as much as they need or to use alternate products and technologies with less impacts.*]
2. recovery and reuse of resources with lesser life cycle impact than landfill [preferably with the least processing and upscaling rather than downscaling]
3. conversion to mulch or compost
4. recovery or raw materials by chemical recycling (e.g., by using pyrolysis) to be used in the manufacture of other products not including fuel)
5. conversion to fuel
6. incineration with recovery of energy [WTE]
7. incineration to reduce volume landfilled should be only a last resort (e.g., if remaining county landfill capacity will last less than 5-10 years).

c) The department shall review and update its lists of designated recyclable wastes and generators subject to the landfill prohibition and report the basis for its decisions [that they meet the criteria for these terms as defined in Section 20-07-03 ] to the Council at least annually. The department shall evaluate the following candidates that are currently accepted at transfer stations as designated recyclable wastes for the first year of implementation:

1. HI5
2. Old Corrugated Cardboard (OCC)
3. NonHI5 Glass (as currently accepted at transfer stations)
4. Greenwaste
5. Scrap metal

The department will review and report to Council at least one new additional recyclable waste each year so that it will meet the reduction/diversion targets in this section.

*[there are many additional recyclable candidates to look at but each has its own challenges re markets at this time - paper, paperboard, textiles, ewaste, plastics, food waste, construction wastes. I don't think we should load code with long lists]*

*d) Incentives to meeting targets???*

**Section 20-07-05 Budget [portions may be a separate bill]**

a) Additional staff for landfill diversion program TBD (including education and technical assistance staff for designated recyclable waste generators)

b) \$\$ is allocated to the department to implement this ordinance

c) The department shall renegotiate contracts with vendor(s) so that they are not based solely on landfill volumes. [need to research municipal waste management programs that accommodate reduced revenue from tipping]

d) The department shall establish and/or renegotiate contracts with organics recycling vendor(s) to reduce costs to the county.

e) The department shall encourage private vendors to collect and process designated recyclable wastes

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- f) The department shall apply for applicable federal grants to assist in landfill diversion programs.
- g) \$\$ for county grants to organizations to develop landfill diversion programs - education programs, waste audits, piloting reuse/recycle operations
- i) The department will explore opportunities to provide credits to haulers and recycling companies using savings from reduced landfill costs, if feasible.

**ALTERNATIVE APPROACH:**

GENERAL DEM CHARTER ON LANDFILL DIVERSION in HCC Chapter 20 and work the details via DEM rulemaking

**“Article 8. Landfill diversion.**

**Section 20-08-01. Landfill diversion.**

The department [DEM] shall establish rules to:

- a. Identify categories of a designated recyclable product[waste];
- b. Identify users who are prohibited from disposing as trash a designated recyclable product [waste] at a solid waste facility;
- c. Identify users who may be allowed to deposit designated recyclable product[waste] for reuse or recycling at a solid waste facility for a service fee;
- d. Create a fee schedule and reporting requirements; and
- e. Provide for exemptions.”