

Aloha Ohana,

I am writing, on behalf of "Kauai Rising" to invite you to join this block of committed, conscious voters that is currently coming together here on Kauai.

As is true most everywhere we are being bombarded with a constant flow of troubling issues, from Genetically Modified Food, to ACT 55 (Public Lands Development Corporation), Chemtrails, Smart Meters, Issues Disrespecting Hawaiian Cultural , Detrimental Military Activities on and around our island etc. Everyone of these issues directly affects the health and well-being of ourselves, our family, our community and the island upon which we live. And the common theme underlying every one of these issues is that they have been created off island, in the dark, behind closed doors without any input from We the People. The "system" has been corrupted by Corporate Greed and the Hunger for Power, taking from We the People the right to manage the health and well-being of our families, our homes, our community, and the Aina.

The Declaration of Independence states that "Governments are instituted solely to secure the rights of the people."

The Hawaiian Constitution states that all political power "is inherent in the people and that all government is founded on this authority."

The Hawaii Constitution also states that the "County of Kauai possesses the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire."

Each of these fundamental foundations of our form of government are being trampled. Act 55, (Public Land Development Corporation) is only the most recent, very blatant example of the complete disregard for the rights of We the People and the Aina.

It is time for We the People to stand up for these rights. We most appreciatively welcome each one of you who recognizes the important significance of these issues and these times, who demonstrates your willingness to be a part of a voice for the Rights of We the People and the Fundamental Rights of the Lands upon which, and with whom we co-exist.

Kauai Rising will strive to keep you informed regarding current issues, candidate's positions, and legislation which affect these issues.

The following is our vision statement. Please read it and if it resonates with you please respond to KauaiRising@gmail.com and you will be added to our member list and kept up to date on our activities. We have less than a month until our November 6th elections day so time is of the essence.

Please pass this invitation on to your friends, family, and community. There is great power in our choosing to come together in recognition of the common good. Your voice is very important!!

Now is the time, and this is the place!!

Rise up Kauai!!

Blessings, Michael Shooltz, On behalf of Kauai Rising

Kauai Rising

A Coalition on the Rights of Nature

We the undersigned choose to join together to support the election of representatives who commit to support the following mutually agreed upon agenda, and legislation honoring these Constitutionally supported truths:

We the people hold the ultimate authority for choices affecting the health, well-being, and freedom of ourselves, our community and our environment.

Specifically we believe that the agendas of corporations, interest groups, or other outside agencies are subservient to the authority and well-being of we the people, and the Earth upon which we live.

KauaiRising@gmail.com

L

**Kauai County, Hawai'i
Ordinance No. ____ of 201 ____**

DRAFT – NOT FOR DISTRIBUTION

A Ordinance to Promote Sustainable Farming on the Island of Kauai by Establishing a Local Food Bill of Rights; by Prohibiting Practices that Would Violate That Local Food Bill of Rights; by Creating Penalties for Those Violations; by Removing Legal Powers from Corporations Engaged in Prohibited Practices; and by Prohibiting Governments from Violating this Ordinance.

Section 1 – Name. This ordinance shall be known and may be cited as “Kauai’s Food Bill of Rights Ordinance.”

Section 2 – Authority This Ordinance is enacted pursuant to the inherent right of the residents of Kauai to govern their own community, as recognized by authorities including, without limitation, the Declaration of Independence’s declaration that governments are instituted solely to secure the rights of people; the Hawai’i Constitution’s recognition that the community of Kauai possesses the “right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire,” the Hawai’i Constitution’s recognition that “each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources,” the Hawai’i Constitution’s recognition that all political power is “inherent in the people” and that “all government is founded on this authority,” and Hawai’i statutes which recognize that the people of Kauai County possess the power to “make and enforce. . . all necessary ordinances” within the County and “that the quality of humanity's environment is critical to humanity's well being.”

Section 3 – Finding and Purpose

Whereas, the people of Kauai find that unsustainable farming practices pose significant threats to the health, safety, and welfare of residents and the environment within Kauai; and that those practices violate the right of the people of Kauai to sustainable farming and a sustainable food system; and

Whereas, the people of Kauai find that the state and federal government’s current policy of encouraging unsustainable farming practices is detrimental to the health and well-being of this community; and

Whereas, the people of Kauai understand that meaningful lawmaking which curtails the authority of agribusiness corporations to engage in unsustainable farming practices may run afoul of certain claimed corporate rights and powers which have been manufactured over the past century; and that the claimed authority of those corporations has resulted in a system in which the rights of corporate minorities have routinely been used to nullify the rights of community majorities and sustainability; and

Whereas, the people of Kauai believe that local legislation that embodies the interests of the community is mandated by the doctrine of the consent of the governed, and the peoples' inherent right to local, community self-government; and


***Whereas*, the people of Kauai believe "Ua mau ke ea o ka aina i ka pono" – "the life of the land is perpetuated in righteousness" - the official motto of the State of Hawaii as declared in the Preamble and Article XV, Section 5 of the Hawaii Constitution and in the statutes of Hawaii.,**

Therefore, the people of the County of Kauai hereby adopts this ordinance, which recognizes the peoples' right to sustainable agriculture, establishes a local Food Bill of Rights for Kauai, prohibits unsustainable farming practices which violate that Bill of Rights, imposes penalties for persons and corporations engaged in unsustainable farming practices, removes certain claimed legal rights and powers from corporations engaged in unsustainable farming practices within the municipality, and prohibits governments from violating the provisions of this Ordinance.

Section 4 – Definitions

- (a) "Corporation" shall refer to any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers and/or managers.
- (b) "Damage natural communities and ecosystems." This term and equivalent terms shall include but not be limited to alteration, removal, destruction, eradication, or other actions inflicted upon natural communities and ecosystems, in whole or in part, that bring about the cessation of the ability of natural communities and ecosystems to exist, flourish, and evolve independent of human intervention.
- (c) "End consumer" means a person who is the last person to purchase any product, who does not resell the product, and who consumes the product within a private home.
- (d) "Family farm corporation" shall mean a corporation engaged in farming in which seventy-five percent (75%) of the ownership interests are held by members of a family and at least one member of that family resides within Kauai and actually works the farm. "Family", as used within this definition, shall mean natural persons related to one another within the fourth degree of kinship according to civil law, or their spouses. **The phrase "family farm corporation" shall also include nonprofit corporations established for community benefit in which the governing board of the corporation consists of members of the local community.**
- (e) "Formula restaurant" and "Formula food retail store" shall refer to any food selling institution, which is substantially identical to more than five (5) other restaurants or food retailing establishments regardless of ownership or location.
- (f) "Genetically Engineered Life Forms or Genetically Modified Organisms"(GMO) and

equivalent terms, shall refer to organisms and their genetic makeup in which genetic material or inherited genetic material has been directly altered through recombinant DNA technology, genetic modification, genetic manipulation (GM), or gene splicing. The term shall not refer to traditional breeding where the organism's genes are manipulated indirectly. The term "organisms" shall include seeds.

- (g) "Humane treatment" means care which provides for the health and well-being of an animal held for commercial and/or agricultural use which is appropriate to the animal's age and species. This includes access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment; access to pasture, for ruminants; appropriate, clean, dry bedding; and shelter designed to allow for natural maintenance, comfort behaviors and exercise, and temperature level and ventilation suitable to the species.
- (h) "Livestock" means all domesticated animals that may be kept in pens, barns, fences, pastures or on farmland as part of an agricultural farming operation that can or may be used in the preparation of animal products, including but not limited to horses, bovine, donkeys, mules, sheep, swine, ostrich, emu and rheas. Poultry, geese, and other fowl are included within the category of 'livestock' for the purpose of this ordinance.
- (i) "Pesticides" are any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, which are synthetically created and known or suspected of being toxic to humans or the environment. Pests can be insects, mice and other animals, unwanted plants (weeds), fungi, or microorganisms like bacteria and viruses. The term pesticide applies to herbicides, fungicides, insecticides, and bactericides used to control pests including those intended for use as a plant regulator, defoliant, or desiccant.
- (j) "Sustainable farming practices" are those farming practices that do not violate the rights of natural communities and ecosystems as recognized by this ordinance; that do not violate the rights of the people of Kauai as secured by this ordinance or other applicable laws, that provide a viable income for farming and harvesting families; that meet all applicable state and federal pollution control requirements for farming practices; that grow, produce, or process foodstuffs within Kauai; that maintain plants, soil, air, water and animals free from genetic modifications or infestation by genetically modified organisms; that maintain plants and soil without pesticides, that do not engage in unsustainable water use; that do not use sewage sludge or urban and industrial waste in the process of farming; and that provide for the humane treatment of livestock. 
- (k) "Sustainable food systems" are systems that provide the community with food produced by sustainable farming practices, that promote biodiversity and productivity, and that provide for the social, economic, and cultural enhancement of the quality of life within the community.
- (l) "Unsustainable farming practices" are farming practices that do not satisfy the definition of "sustainable farming practices" pursuant to this ordinance. Unsustainable farming practices shall also include the use of non-family farm corporations to engage in farming

within the municipality. “Engage in farming”, as used in this definition, shall include day-to-day operation of the farm, ownership of livestock, control of agricultural processes, or contractual agreements under which substantial control over the farm operation is transferred to the corporation.

- (m) “Unsustainable water use” means access, use, consumption or disposal of water from natural water sources or from facilities for the treatment of water, that interferes with natural water cycles, lessens the quality of water accessed in the County, or discharged within the County, to any degree, depletes the recharge of natural water systems, or violates the rights of human and natural communities or ecosystems as secured by this Ordinance. **The phrase shall not include any uses protected under Article XII of the Hawaiian Constitution.**

Section 5---Statements of Law – A Kauai Food Bill of Rights

- (a) Right to Sustainable Agriculture and a Sustainable Food System. All residents of the County of Kauai possess a right to sustainable agriculture and a sustainable food system
- (b) Right to Water. All residents, natural communities, and ecosystems in the County of Kauai possess a fundamental and inalienable right to the sustainable access, use, consumption, and preservation of water drawn from natural water cycles that provide water necessary to sustain life within Kauai.
- (c) Rights of Natural Communities. Natural communities and ecosystems, including terrestrial as well as aquatic systems such as wetlands, streams, rivers, reefs, and aquifers, and the systems of life that inhabit them, possess inalienable and fundamental rights to exist, persist, maintain themselves, and regenerate their own vital cycles, structures, functions, and evolutionary processes within Kauai. Natural communities and ecosystems have a fundamental and inalienable right to be free from the introduction of genetically modified organisms, to be free from the patenting or ownership of their genetic essence, and to be free from pesticides.
- (d) Right of Access to Sustainably Produced Food. All residents of the County of Kauai possess a fundamental and inalienable right to access, use, consume, produce and distribute foods generated from sustainable farming practices.
- (e) Right to Seed Sovereignty. All residents, Kauai communities, and each natural community within the County of Kauai, possess the right to be free from infection, infestation or drift by any means, from genetically engineered life forms or genetically modified organisms.
- (f) Right to Clean Air and Soil. All residents, Kauai communities, and each natural community within the County of Kauai, possess a fundamental and inalienable right to air and soil free of pesticides.
- (g) Right to Self-Government. All residents of Kauai possess the fundamental and inalienable

right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

- (h) *People as Sovereign.* The County of Kauai shall be the governing authority responsible to, and governed by, the residents of the County. Use of the "County of Kauai" municipal corporation by the sovereign people of the County to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and indefeasible right to self-governance in the community where they reside.

Section 6—Statements of Law – Prohibition of Unsustainable Agricultural Practices and Securing of the Food Bill of Rights.

(a) It shall be unlawful for any person or corporation to engage in unsustainable farming practices within the County of Kauai.

(b) It shall be unlawful for any person or corporation engaged in farming outside of the municipality, or within the municipality, to cause genetically engineered life forms or organisms to infect crops grown within the municipality. No resident of the County of Kauai shall be held liable to any corporation claiming loss of income or commercial infringement resulting from the inadvertent infection of crops by genetically engineered life forms or genetically modified organisms used, produced, distributed, or sold by that corporation.

(c) Each formula restaurant or formula food retail store situated within the County of Kauai shall maintain at least 25% of its total food inventory with food produced by sustainable food systems.

(d) It shall be lawful for those producing food under the provisions of this ordinance to enter into agreements with end consumers, which waive any liability for the consumption of that food. Those producing food under the provisions of this ordinance shall be exempt from state and federal licensure and permitting requirements for that food as long as it is sold pursuant to those agreements.

(e) No permit, license, privilege or charter issued by any State or federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this ordinance or deprive any County resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Hawai'i Constitution, the United States Constitution, or other laws, shall be deemed valid within the County of Kauai.

Section 7—Enforcement

(a) The County of Kauai may enforce this ordinance through an action brought in a court of competent jurisdiction. In such an action, the County of Kauai shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(b) Any Kauai resident shall have the authority to enforce this ordinance through an action brought in a court of competent jurisdiction. In such an action, the resident shall be entitled to recover damages and all costs of litigation, including, without limitation, expert and attorney's fees.

showing of harm?

(c) Any Kauai resident, an association of Kauai residents, or the County of Kauai shall have standing to enforce the rights of natural communities and ecosystems as provided in this ordinance, and any damages recovered by those actions shall be paid to the County of Kauai to be used solely for restoration of the damaged natural community or ecosystem.

** penalty not cited.*

(d) Corporations in violation of the prohibitions established by this ordinance, and corporations seeking to violate the prohibitions established by this ordinance, shall not possess the rights of "persons," nor access to legal protections afforded to persons by the United States and Hawai'i Constitutions, nor shall those corporations be afforded rights under the 1st or 5th amendments to the United States Constitution or corresponding sections of the Hawai'i Constitution, nor shall those corporations be afforded the protections of the Commerce or Contracts clauses within the United States Constitution or corresponding sections of the Hawai'i Constitution.

(e) Corporations engaged in activities prohibited by this ordinance, and corporations seeking to engage in activities prohibited by this ordinance, shall not possess the authority or power to enforce State or federal preemptive law against the people of the County of Kauai, or to challenge or overturn municipal ordinances adopted by the people of the County of Kauai, when that enforcement or challenge interferes with the rights asserted by this ordinance, or interferes with the authority of the municipality to protect the health, safety, and welfare of its residents.

Section 8—Effective Date. This Ordinance shall be effective five (5) days after the date of its enactment.

Section 9—People's Right to Self-Government. The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and pursuit of happiness. Any attempts to use other units and levels of government to preempt, amend, alter, or overturn this ordinance, or parts of this ordinance, shall require the County to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of Kauai or their elected officials.

Section 10---Hawai'i Constitutional Changes. Through the adoption of this ordinance, the people of the County of Kauai call for state recognition of a municipal food bills of rights. Accordingly, the people of the County of Kauai call for changes to be made to the Hawai'i Constitution, which recognize and secure a community right to local self-government that cannot be preempted by the State if the community's laws enforce standards and rights more protective of the health, safety, and welfare of the people of Kauai County and the natural environment. The people of the County also call for state constitutional changes that elevate community rights above those claimed by corporations when community rights conflict with corporate privileges, and that recognize the rights of nature enforceable by the residents of a community.

Section 11---Severability. The provisions of this ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the ordinance. The people of the County of Kauai hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 12---Repealer. All inconsistent provisions of prior ordinances adopted by the County of Kauai are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this ____ day of _____, 201____, by the County of Kauai.

By: _____