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COUNTY COUNCIL
COUNTY OF MAUI
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December 4, 2018

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COUNTY CLERK

The Honorable Mike White
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair White:

SUBJECT: **RESTRICTING THE USE AND SALE OF SINGLE-USE
PLASTIC DISPOSABLE FOODWARE** (PAF 18-289)

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 20.24, MAUI COUNTY CODE, RELATING TO RESTRICTING THE USE AND SALE OF SINGLE-USE PLASTIC DISPOSABLE FOODWARE," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in dark ink, appearing to read "Elle Cochran", is written over a light blue horizontal line.

ELLE COCHRAN
Councilmember

paf:mcc:18-289c

Attachment

COUNTY COMMUNICATION NO. 18-430

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE ESTABLISHING A
NEW CHAPTER 20.24, MAUI COUNTY CODE,
RELATING TO RESTRICTING THE USE AND SALE OF
SINGLE-USE PLASTIC DISPOSABLE FOODWARE

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

SECTION 1. Due to its ability to break down into small and microscopic fragments that persist for decades, single-use plastic disposable foodware has significant negative impacts on the environment, contributes to the potential death of marine animals and avian populations through ingestion, and has been found to be ingested by humans in microplastic form through the food chain. Single-use plastic disposable foodware such as straws have also been found to cause significant physical harm to marine animals and avian populations prior to breaking down into fragments.

The Council finds and declares that, to protect the County's unique environment and the health and welfare of its marine and avian life, single-use plastic disposable foodware must be regulated.

SECTION 2. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 20.24

SINGLE-USE PLASTIC DISPOSABLE FOODWARE

Sections:

- 20.24.010 Purpose.
- 20.24.020 Definitions.
- 20.24.030 Administration.
- 20.24.040 Prohibitions.
- 20.24.050 Exemptions.
- 20.24.060 Violation and penalties.
- 20.24.070 Public information.
- 20.24.080 No conflict with federal or state law.
- 20.24.090 Council review.

20.24.010 Purpose. The purpose of this chapter is to promote public health, reduce litter, and limit harmful materials from entering the environment by regulation and limitation of the use of single-use plastic disposable foodware by food providers; and to encourage the use of environmentally preferred alternatives, such as containers, straws, and utensils made from compostable materials.

20.24.020 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“Affordable” means purchasable for not more than 40 percent more than the purchase cost of equivalent single-use plastic disposable foodware.

“ASTM standard” means the American Society for Testing and Materials (ASTM) International Standard.

“Compostable” means materials that are able to undergo biological decomposition or become part of usable compost in a safe and timely manner, either in an appropriate composting program or facility, or in a home compost pile or device. To qualify as compostable, such food service containers must meet ASTM Standard D6400 for Compostable Plastics, as amended.

“Department” means the department of environmental management.

“Director” means the director of environmental management.

“Disposable foodware” means all bags, sacks, wrappers, paper or foil liners, containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, utensils, straws, cocktail picks, lids, and any other food contact items used to hold, serve, eat, or drink prepared food, which are designed for single-use and in which prepared food is placed or

packaged on a prepared food provider's premises, including food service containers as defined in section 20.26.020 of this code.

"Fluorinated chemicals" means perfluoroalkyl and polyfluoroalkyl substances or fluorinated chemicals which, for the purposes of food packaging, are a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

"Food provider" means any entity or person providing prepared food for consumption within the County, including any store, shop, sales outlet, restaurant, bar pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, food truck, catering vehicle or car, or roadside stand.

"Plastic" means a synthetic material made from fossil fuel-based polymers such as polyethylene, polystyrene, polypropylene, and polycarbonate that can be molded or blown into shape while soft and then set into a rigid or slightly elastic form.

"Prepared food" means foods or beverages which are prepared on a food provider's premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. "Prepared food" does not include raw uncooked whole fruits or vegetables which are not otherwise prepared, or raw, uncooked meat products.

"Recyclable" means used or waste materials that can be treated or processed to be made suitable for reuse, whether in their original form or with minimal alterations. For the purposes of this chapter, recyclable materials do not include plastic or polystyrene foam.

20.24.030 Administration. A. The director shall administer this chapter and adopt administrative rules pursuant to chapter 91, Hawaii Revised Statutes, within two hundred seventy days from the date of adoption of this ordinance.

B. On or before September 1 of each anniversary of the effective date, the director shall submit to the council a report detailing compliance with this ordinance, including the number and type of exemptions granted.

20.24.040 Prohibitions. Except as provided in section 20.24.050:

1. Food providers shall not sell, use, provide, or offer the use of single-use plastic disposable foodware within the County.

2. Non-plastic, compostable alternative straws, stirrers, or cutlery shall only be provided upon request by a customer. Alternative options shall be free of intentionally added fluorinated chemicals.

3. Single-use plastic disposable foodware shall not be sold, used, provided, or offered for use at any County facility, County-

authorized concession, County-sponsored or County-permitted event, or County program.

4. Single-use plastic disposable foodware shall not be offered for sale or sold in the County.

20.24.050 Exemptions. This chapter shall not apply to any of the following:

1. Single-use plastic disposable foodware used for raw or butchered meats, poultry, fish, or eggs, unless provided for consumption without further food preparation (e.g., sashimi and poke).

2. Packaging in situations unique to the food provider, where compliance with this chapter would cause significant hardship and there is no affordable alternative to single-use plastic disposable foodware, provided the food provider applies for an exemption and such exemption is granted by the director.

3. The director may provide temporary exemptions or other relief that apply to certain foodware products for a period of up to one year from December 31, 2019, with the option for additional annual extensions should circumstances warrant. Exemptions may also be granted for circumstances where commonly used recycling and composting technology cannot process the foodware, or where suitable alternative products that meet performance and food health and safety standards are unavailable.

20.24.060 Violation and penalties. A. Violations of this chapter shall be subject to the civil penalties and enforcement procedures of section 19.530.030 of this code.

B. Fines collected pursuant to this chapter shall be deposited into the solid waste management fund.

20.24.070 Public information. Restrictions in this chapter on the use of single-use plastic disposable foodware shall be set forth on all application forms for permits relating to County facilities, County-managed concessions, County-sponsored or County-permitted events, or County programs.

20.24.080 No conflict with federal or state law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement of duty in conflict with any federal or state law.

20.24.090 Council review. The council shall review this ordinance in 2022.”

SECTION 3. This ordinance shall take effect on December 31, 2019.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read "R. Thomson", written over a horizontal line.

RICHELLE M. THOMSON
Department of the Corporation Counsel
County of Maui
LF 2018-1616