

MICHAEL P. VICTORINO
Mayor

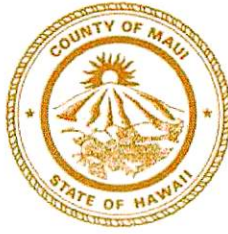
ERIC A. NAKAGAWA, P.E.
Director

SHAYNE R. AGAWA, P.E.
Deputy Director

MICHAEL P. RATTE
Solid Waste Division

SCOTT R. ROLLINS, P.E.
Wastewater Reclamation Division

TAMARA L. FARNSWORTH
Environmental Protection &
Sustainability Division



COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

RECEIVED
2020 OCT -2 AM 9:40
OFFICE OF THE MAYOR

RECEIVED
2020 OCT -6 AM 11:41
OFFICE OF THE
COUNTY CLERK

October 1, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 10/5/20
Mayor Date

For Transmittal to:

Honorable Alice L. Lee, Chair
And Members of the Maui County Council
Maui County Council
200 South High Street
Wailuku, HI 96793

Dear Council Chair Lee and Members:

SUBJECT: **ORDINANCE NO. 4457**
POLYSTYRENE FOAM FOOD SERVICE CONTAINERS BAN
2020 ANNUAL COMPLIANCE REPORT

The attached report is in accordance with the Polystyrene Food Service Container Ban, Ordinance No. 4457, Section 20.26.030, Administration, Section 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. In this initial year of implementation, this report also includes an overview of the legislation and the steps taken to implement the ordinance effectively.

If you have any questions or need any additional information, please contact me at (808) 270-8229.

Sincerely,

Digitally signed by Eric Nakagawa
DN: cn=Eric Nakagawa, o=County of Maui,
ou=Director of Environmental Management,
email=eric.nakagawa@co.maui.hi.us, c=US
Date: 2020.10.01 16:45:22 -1000

ERIC A. NAKAGAWA, P.E.
Director of Environmental Management

COUNTY COMMUNICATION NO. 20-516

**ORDINANCE NO. 4457
POLYSTYRENE FOAM FOOD SERVICE CONTAINERS BAN
2020 ANNUAL COMPLIANCE REPORT**

OVERVIEW

Ordinance No. 4457, a ban on the sale, use, or provision of polystyrene foam food containers in County of Maui was passed by Maui County Council May 18, 2017 and became effective on December 31, 2018. This reports includes the first year and 9 months after the effective date. The Department of Environmental Management, Environmental Protection & Sustainability Division (EP&S), Recycling Section is responsible for implementation and enforcement of the ban.

IMPLEMENTATION

Ordinance No. 4457 was passed on May 18, 2017. In the months after passage of the legislation, EP&S Recycling Section conducted planning and research. Administrative rules were drafted, a public hearing was held for public comment, and final adoption of the rules became effective on July 30, 2018.

The EP&S Recycling Section engaged in education for businesses affected by the ban starting in January 2018 and continued supporting businesses for as long as needed after it went into effect. The education plan included a random survey to gauge needs, communication with businesses through direct mailings, in-person visits to businesses in the main commercial areas (towns) of Molokai and Lanai, provision of promotional/education materials (posters, window clings, stickers), and working with food service container distributors and the Food Service Industry Association (FSIA). Most establishments reported readiness for compliance within three (3) months before the ban went into effect.

A public education "Foam Free Maui County" campaign consisting of print and radio ads, creation of the Foam Free website (mauicounty.gov/foamfree), and distribution of Foam Free stickers was introduced in July of 2018. The "BYO!" campaign promoting waste reduction and the use of reusable foodware items was simultaneously introduced.

The ordinance became effective on December 31, 2018. EP&S engaged in active enforcement procedures between January 1, 2019 and December 31, 2019. Enforcement measures as of January 1, 2020 are more passive, based on random checks at various locations in Maui County.

OBSTACLES AND SOLUTIONS

One "speedbump" occurred when EP&S staff informed FSIA in October 2018 that "pre-packaged" containers were exempt. However, it was discovered that during the final executive session of council proceedings the "pre-packaged" exemption was removed from the legislation to prevent a potentially unfair disadvantage for businesses that may work with pre-packaged foods from Oahu. The mistake was discovered after the FSIA had already notified their members that pre-packaged items were exempt. The major outcome of this was that some businesses ordered stocks of products, particularly "Cup Noodles" type products, that could not be exhausted/sold by the time the law became effective. These businesses were allowed to apply for a "delay in enforcement" until their stocks were exhausted. All the businesses that applied for this "delay" were verified to have completed distribution of these stocks within 3-9 months of the effective date and thereafter demonstrated full compliance with the ban.

Other issues included assisting the public to determine distinctions between types of containers and exempted instances that are allowable under the law. For instance, one supermarket began using a tray for vegetables that resembled polystyrene foam, but was actually made from a

vegetable-based material. Others mistakenly reported instances where polystyrene foam containers are allowed, such as for use with raw meats. EP&S office worked to help businesses and public to gain clarity with container type inclusions and exemptions.

COMPLIANCE MEASURES

The main intent to gain compliance is to assist businesses with understanding the law, rather than taking punitive measures. Between January 1, 2019 and January 1, 2020, about 20 phone calls were received by EP&S reporting possible violations. For example, a Haiku sushi restaurant was reported to be packaging take-out orders in polystyrene containers, but a phone call helped to resolve the matter. Another example, which required stronger measures, was a report that a Kahului hardware store was serving coffee in foam cups. EP&S staff contacted the store on the phone, but it did not result in compliance. A formal violation warning was then issued in February 2020, resulting in compliance shortly after receiving the letter. This instance is the only formal violation notice given since the law went into effect.

EXEMPTIONS – NUMBER AND TYPE

Refer to Section 20.26.050 for the six (6) types of exemptions listed in the ordinance.

Businesses may request an exemption by submitting an Application for Exemption form, attached. Twenty-six (26) requests for “delay in enforcement” for Cup Noodle type or other products were submitted and approved. One request for exemption/delay was submitted by Maui Correctional Food Service to grant more time to switch to a different type of tray. See attachment for records of requests and inquiries. All requesting entities have been determined to be fully compliant since January 1, 2020. No additional requests for exemption have been submitted as of January 1, 2020.

EVALUATION

Overall, implementation of Ordinance No. 4457 was successful with little need for formal enforcement due to extensive preliminary educational efforts to businesses and preparing the public with a media campaign. Spot checks at various businesses have shown no violations since the first nine (9) months of the effective date and just one notice of warning issued based on a report from the public, since corrected. The public is still encouraged to report violations.

At the time of this writing, Ordinance No. 4457 has been amended by Ordinance No. 5084 to include all take-out plastic food containers, utensils, straws, and disposable foam coolers, effective January 1, 2022.

RECOMMENDATIONS

Recommendations for implementation of future similar legislation include:

- 1) Corporation counsel review of details of the ordinance for accuracy and clarity with department
- 2) Develop a comprehensive guide including images and text that outline all of the types of banned containers, also listing possible replacements and sources of distribution
- 3) Identify gaps and include businesses that were not reached with initial educational efforts such as grocery and sundries stores, in-store delis (i.e. Tamura's, Takamiya's, Kaohu Store), and gas stations with food service/delis.

ATTACHMENTS

Ordinance No. 4457
Ordinance No. 4457 Administrative Rules
Foam Free Maui poster, sticker, FAQ
Application for Exemption Form
Exemption Request Tracking Spreadsheet

ORDINANCE NO. 4457

BILL NO. 127 (2016)
Draft 2

A BILL FOR AN ORDINANCE ESTABLISHING A
NEW CHAPTER 20.26, MAUI COUNTY CODE,
RESTRICTING THE USE AND SALE OF
POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

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

SECTION 1. Due to its lightweight nature and ability to break down into smaller fragments that persist for decades, polystyrene foam has significant negative impacts on the environment, and contributes to the potential death of marine animals and avian populations through ingestion.

The council finds and declares that, to protect the County's unique environment and the health and welfare of its marine and avian life, polystyrene foam food service containers 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 20.26

POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

Sections:

20.26.010	Purpose.
20.26.020	Definitions.
20.26.030	Administration.
20.26.040	Prohibitions.
20.26.050	Exemptions.
20.26.060	Violation and penalties.
20.26.070	Public information.
20.26.080	No conflict with federal or state law.

20.26.090 Council review.

20.26.010 Purpose. The purpose of this chapter is to promote public health, reduce litter, and limit harmful materials from entering the environment by the regulation and limiting of the use of polystyrene foam food packaging by food providers; and encourage the use of environmentally preferred alternatives, such as containers made from recyclable and compostable materials.

20.26.020 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 an equivalent polystyrene foam food service container.

“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.

“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 cart, or roadside stand.

“Food service container” means all plates, trays, cups, bowls, cartons, and hinged or lidded containers (clamshells) on or in which any foods or beverages are placed or packaged or intended to be placed or packaged and designed for one-time use.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam does not include clear or solid polystyrene (oriented polystyrene).

“Prepared food” means any food or beverage prepared for consumption using any cooking, packaging, or food preparation

technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, and or otherwise prepared for consumption.

“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 polystyrene foam.

20.26.030 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.

20.26.040 Prohibitions. Except as provided in section 20.26.050:

A. Food providers shall not sell, use, provide, or offer the use of polystyrene foam food service containers.

B. Polystyrene foam food service containers 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.

C. Polystyrene foam food service containers shall not be offered for sale or sold in the County.

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

A. Polystyrene foam food containers used for raw or butchered meats, poultry, fish, or eggs unless provided for consumption without further food preparation (e.g., sashimi and poke).

B. Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use.

C. Foam blocks or pieces used as protective packaging during shipping (e.g., packing peanuts).

D. Packaging in situations unique to the type of food, where there are no reasonable alternatives to polystyrene foam food service containers, provided the food provider applies for an exemption and such exemption is granted by the director.

E. Packaging in situations unique to the food provider, where compliance with this chapter would cause significant hardship and there is no affordable alternative to polystyrene foam

food service containers, provided the food provider applies for an exemption and such exemption is granted by the director.

F. Packaging in any situation deemed by the County to be an emergency requiring the immediate preservation of life, health, property, safety, or essential public services. This exemption shall be in place until the emergency has ceased or the mayor has determined the exemption is no longer applicable to the situation.

20.26.060 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.

20.26.070 Public information. Restrictions in this chapter on the use of polystyrene foam food service containers 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.

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

20.26.090 Council review. The council shall review this ordinance in 2021."

SECTION 3. This ordinance shall take effect on December 31, 2018

APPROVED AS TO FORM
AND LEGALITY:



RICHELLE THOMSON
Deputy Corporation Counsel
LF2016-1832

WE HEREBY CERTIFY that the foregoing BILL NO. 127 (2016), Draft 2


i. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 18th day of May, 2017, by the following vote:

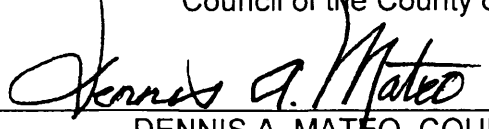
Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 23rd day of May, 2017.

DATED AT WAILUKU, MAUI, HAWAII, this 23rd day of May, 2017.

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COUNTY CLERK'S OFFICE

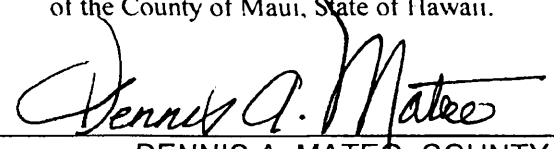

MICHAEL B. WHITE, CHAIR
Council of the County of Maui


DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 5 DAY OF June, 2017.


ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4457 of the County of Maui, State of Hawaii.


DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on December 16, 2016
Effective date of Ordinance December 31, 2018

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OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4457, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

COUNTY OF MAUI

Adoption of Chapter 402
Rules Relating to Polystyrene Foam
Food Service Containers

SUMMARY

Chapter 402, entitled "Rules Relating to Polystyrene Foam
Food Service Containers", is adopted.

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
COUNTY OF MAUI

Adoption of Title 17, Subtitle 04, Chapter 402
County of Maui Administrative Rules

1. Title 17, Subtitle 04, Chapter 402, County of Maui Administrative Rules, entitled "Rules Relating to Polystyrene Foam Food Service Containers", is adopted to read as follows:

"COUNTY OF MAUI ADMINISTRATIVE RULES

TITLE MC-17

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

SUBTITLE 04

ENVIRONMENTAL PROTECTION & SUSTAINABILITY

CHAPTER 402

RULES RELATING TO POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

§17-402-1	Title
§17-402-2	Purpose
§17-402-3	Definitions
§17-402-4	Prohibition
§17-402-5	Exemptions
§17-402-6	Application for exemption under §17-402-5(4) for packaging in situations unique to the type of food
§17-402-7	Application for exemption under §17-402-5(5) for packaging in situations unique to the food provider
§17-402-8	Duration, renewal, and revocation of exemptions
§17-402-9	Appeal
§17-402-10	Violations and penalties

§17-402-1 Title. The rules of this chapter shall be known as the "Rules Relating to Polystyrene Foam Food Service Containers". [Eff 12/31/18] (Auth: HRS §§91-2, 46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030(A) (Imp: HRS §91-2)

§17-402-2 Purpose. These rules shall govern administrative procedures related to chapter 20.26, Maui County Code. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.010) (Imp: HRS §91-2, MCC §20.26.010)

§17-402-3 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, the words and phrases used herein are defined as follows:

"Affordable" means that a non-polystyrene foam food service container costs less than 140 percent of the cost of an equivalent polystyrene foam food service container.

"Department" means the department of environmental management.

"Director" means the director of environmental management or the director's authorized representative.

"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 cart, or roadside stand.

"Food service container" means all plates, trays, cups, bowls, cartons, and hinged or lidded containers (clamshells) on or in which any foods or beverages are placed or packaged or intended to be placed or packaged and designed for one-time use.

"Polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam does not include clear or solid polystyrene (oriented polystyrene).

"Prepared food" means any food or beverage prepared for consumption using any cooking, packaging, or food preparation technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, and or otherwise prepared for consumption. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.020)

§17-402-4 Prohibition. Unless exempt under §17-402-5:

- (1) Food providers shall not sell, use, provide, or offer the use of polystyrene foam food service containers.

- (2) Polystyrene foam food service containers 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.
- (3) Polystyrene foam food service containers shall not be offered for sale or sold in the County. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.040)

§17-402-5 Exemptions. This chapter shall not apply to the following:

- (1) Polystyrene foam food containers used for raw or butchered meats, poultry, fish, or eggs unless provided for consumption without further food preparation (e.g., sashimi and poke).
- (2) Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use.
- (3) Foam blocks or pieces used as protective packaging during shipping (e.g., packing peanuts).
- (4) Packaging in situations unique to the type of food, where there are no reasonable alternatives to polystyrene foam food service containers, provided the food provider applies for an exemption pursuant to §17-402-6 and such exemption is granted by the director.
- (5) Packaging in situations unique to the food provider, where compliance with this chapter would cause significant hardship and there is no affordable alternative to polystyrene foam food service containers, provided the food provider applies for an exemption pursuant to §17-402-7 and such exemption is granted by the director.
- (6) The sale of polystyrene food service containers to food providers pursuant to an exemption described in this section.
- (7) Packaging in any situation deemed by the County to be an emergency requiring the immediate preservation of life, health, property, safety, or essential public services. This exemption shall be in place until the emergency has ceased or the mayor has determined the exemption is no longer applicable to the situation. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050)

§17-402-6 Application for exemption under §17-402-5(4) for packaging in situations unique to the type of food. A food provider may submit an application, preferably on the form provided by the director, and shall set forth with specificity:

- (1) The name, address, and copy of the food provider's most current business registration certificate (business license).

- (2) A description of the polystyrene foam food service container(s) at issue, including an estimate of the monthly quantity of the polystyrene foam container(s) used.
- (3) The factual basis to support the requested determination that there is no reasonable alternative to the use of polystyrene foam food service containers, which, for example, may include packaging necessary for safely containing food that is of significantly high or low temperature; specific transportation requirements or safeguards; or franchising agreements that contractually require use of polystyrene foam food service containers without the ability to use alternative products.
- (4) Copies of all exemptions issued to the applicant under this chapter.
- (5) If an exemption is granted under this section, the polystyrene foam food service containers may only be used for the specific food item(s) identified in the application. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050(D))

§17-402-7 Application for exemption under §17-402-5(5) for packaging in situations unique to the food provider. (a) To qualify for an exemption under 17-402-5(5), an applicant must be a food provider with a gross annual income of less than \$500,000 per location, as shown on the applicant's annual income tax filing for the most recent tax year. To qualify under this section, the applicant must not be a franchisee, part of a chain food service establishment, or a chain store.

(b) A food provider may submit an application, preferably on the form provided by the director, and shall set forth with specificity:

- (1) The name, address, and copy of the food provider's most current business registration certificate (business license).
- (2) The polystyrene foam food service container(s) at issue, including why the food provider requires the product(s) and an estimate of the monthly quantity of the product used.
- (3) The factual basis to support the requested determination that use of compliant food service containers would cause the applicant significant hardship and there is no affordable compliant alternative.
- (4) Copies of all previous exemptions issued to the applicant under this chapter.

(c) In considering whether the applicant may experience a significant hardship, the director may consider factors such as the applicant's gross revenue, adjusted gross income, or average operating profit for the preceding five years; the cost to switch to non-polystyrene food service containers; and the effect of compliance on applicant's cost to operate its existing business. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050)

§17-402-8 Duration, renewal, and revocation of exemptions. (a) Initial exemptions are valid for a maximum period of two years, except shorter periods may be approved by the director.

(b) Applications to renew exemptions shall be submitted to the department no less than thirty days prior to the expiration of the exemption. Exemption renewals may be granted for up to two years upon a showing that the applicant continues to meet all applicable requirements.

(c) Exemptions may be revoked upon the director's finding that the basis for the exemption is no longer valid or the applicant has otherwise violated this chapter. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030)

§17-402-9 Appeal. A person aggrieved by the director's decision may appeal the director's decision by filing with the board of variances and appeals a notice of appeal no later than thirty days from the date of mailing of the director's decision pursuant to the appeal procedures set forth in chapter 19.520, Maui County Code. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030)

§17-402-10 Violations and penalties. This chapter shall be enforced pursuant to section 19.530.030, Maui County Code." [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.060)

2. Chapter 402, "Rules Relating to Polystyrene Foam Food Service Containers", shall take effect on December 31, 2018.

2014-2595
2018-07-30 Polystyrene Admin Rules (Effective Version)

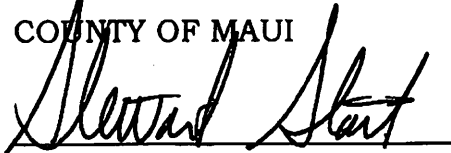
CERTIFICATION

I, STEWART STANT, Director of the Department of Environmental Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true, and correct copy of the Rules Relating to Polystyrene Foam Food Service Containers, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on May 29, 2018, following a public hearing that closed on May 15, 2018, and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing adoptions to the rules was published in the Maui News on April 8, 2018.

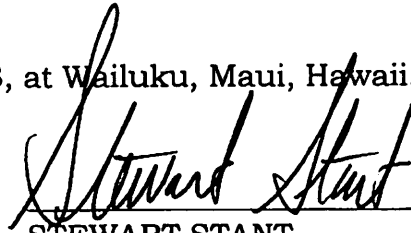
COUNTY OF MAUI

A handwritten signature in black ink, appearing to read "Stewart Stant", is written over a horizontal line.

STEWART STANT

Director, Department of
Environmental Management

Adopted this 29 day of May, 2018, at Wailuku, Maui, Hawaii.



STEWART STANT
Director, Department of
Environmental Management

Approved this 1 day of
June, 2018.



ALAN M. ARAKAWA
Mayor, County of Maui

APPROVED AS TO FORM
AND LEGALITY:



RICHELLE M. THOMSON
Deputy Corporation Counsel
County of Maui

Received this 4th day of
June, 2018.



Kenneth A. Mateo
Clerk, County of Maui

FOAM FREE

MAUI COUNTY



Polystyrene foam food and beverage containers will be banned for use, sale or provision **effective December 31, 2018.**

BE AWARE AND PREPARE

The ban will affect Maui County food providers that now serve food or beverages in polystyrene food-service containers, as well as businesses that sell polystyrene food-service products. These businesses will soon provide alternative products for your convenience.

Protecting Wildlife

Reducing Plastic Waste

Combating Climate Change



Environmental
Protection &
Sustainability
Division

mauicounty.gov/foamfree

FOR EASY REMOVAL, BEND & PEEL HERE →

FOAM FREE
MAUI COUNTY



8 1/4"

2 1/2"



FAQ's for Business Owners

When does the ban on polystyrene foam food containers go into effect? December 31, 2018

What kind of containers are banned?

Expanded polystyrene foam (EPS) food service containers including: hinged clamshells (like for plate lunches), cups, plates, bowls, and serving trays. If food or beverages can be served on or in it and its made of EPS, its not allowed after December 31, 2018.

Are raw meat trays allowed?

Yes. Polystyrene foam food containers used for raw or butchered meats, poultry, fish, or eggs are exempt unless they are provided for consumption without further food preparation (e.g., sashimi and poke).

Are produce/ vegetable trays allowed?

No. Because these items do not present risk of contamination by raw meat-related illnesses, produce does not need a polystyrene foam tray.

Who can I call for help with clarification?

Call the Environmental Protection & Sustainability Hotline at (808) 270-7880.

How can I do more?

- Spread awareness by displaying a Foam Free Maui County window cling and/or poster.
- Encourage customers to bring their own cutlery and straws; sell reusable options with your logo.
- Participate: go to lovethesea.org who is partnered with more organizations and resources

What are the consequences if a business doesn't comply?

A notice of violation shall be mailed that may require any or all of the following:

- Cease and desist from the violation
- Correct the violation at the person's own expense before a specified date
- Pay a civil fine not to exceed \$1,000.00 by a specified date
- Pay a civil fine of up to \$1,000.00 per day for each day the violation persists
- More information can be found in the Administrative Rules 19.530.030

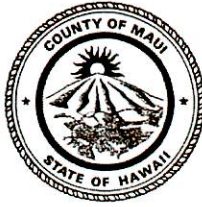
I am concerned about cost; what can I do?

Work with your supplier to come up with the best solution to meet your needs. There are many types of affordable alternative products to choose from. You can raise food prices by a few cents to cover cost. Identify ways to reduce waste as reducing waste often results in saving money.

Some ways to save money by reducing waste are:

- Give out utensils, napkins, and straws by request only.
- Recycle cardboard if you don't already. Cardboard recycling can reduce the number of trash pick-ups (and price) per month.
- Study how much food is thrown out daily, then reduce food orders accordingly.
- Turn off air conditioners at night, and ovens when they are not in use.

To view the full ordinance and administrative rules, and for more information, please visit:
mauicounty.gov/foamfree



County of Maui, Department of Environmental Management
Environmental Protection & Sustainability Division
200 South High Street, Wailuku, HI 96793
(808) 270-7631 www.mauicounty.gov/eps

**APPLICATION FOR EXEMPTION FROM POLYSTYRENE FOAM FOOD SERVICE CONTAINER
ORDINANCE NO. 4457 IN ACCORDANCE WITH SECTION 17-402-7**

****NOTE: Applicant must comply with the ordinance during this application process****

****Please allow up to 12 weeks for evaluation****

Applicant Name (First, Last, MI) _____ Title _____

Business Name _____

Address _____ City _____ State _____ Zip Code _____

Email _____ Phone _____

Is the business annual gross income more than \$500,000 per year? (Yes or No) _____

Type of container at issue: _____

Estimated quantity of container used per month: _____

Explain why this type of container is required: _____

Describe basis to support the cause of significant hardship: Is there an "affordable" compliant (non-polystyrene) container that could be used? ("Affordable" is defined as costing less than 140% the cost of an equivalent "Polystyrene foam" container.) Please provide price information from available vendors supporting this information. _____

What compliant containers have you tried to use before requesting this exemption, and why were they not acceptable for your use? _____

The following must be submitted with this application:

- Photo of container at issue
- Copy of most recent year annual income tax file
- Copy of your business license
- Copies of all previous exemptions issued under this chapter

Submit to:

By email: cecile.powell@mauicounty.gov

By mail or in person: Att: Cecile Powell
2145 Wells St, Suite 103
Wailuku, HI 96793

CERTIFICATION

I hereby certify that all statements above are true and correct to the best of my knowledge.

Signature _____ Date _____

FOR ASSESSOR'S USE ONLY

Date Received:	By:	Approved:	Disapproved:
Reason:			

POLYSTYRENE FOAM FOOD SERVICE CONTAINER EXEMPTION REQUESTS								
DATE REC	BUSINESS NAME	CONTACT NAME	PHONE	EMAIL	12 WEEK DATE	APPROVED Y/N	EXTENSION DATE	NOTES
12/10/18	Tamura Enterprises, Inc.	Jessie Ibanez, Director of Ops	808-542-8222	jibanez@tamuras-hi.com	3/11/2019	Yes/Expedited	3/11/19	Request to deplete back stock/inventory
12/17/18	Costo Wholesale #119-Maui	Tony Facemire, General Mgr	808-877-5241	w119mgr@costco.com	3/18/2019	Yes/Auto Approval	2/28/19	Request for Cup of Noodle
12/18/18	Misaki's, Inc.	Kevin Misaki, President	808-553-5505	kevmisaki@gmail.com	3/18/2019	Yes/Auto Approval	3/18/19	Request to deplete stock
12/19/18	Pine Isle Market, Ltd	Kerry Honda	808-563-1212	khonda.pim@gmail.com	3/19/2019	Yes/Expedited	6/19/19	Deplete stock
12/19/18	SMK, Inc. (ABC Stores)	Lovella Romualdo, Asst Property Manger	808-597-3389	lromualdo@abcstores.com	3/19/2019	Yes/Auto Approval	3/31/19	Deplete stock
12/19/18	Maui Chemical & Paper Products, Inc.	Todd Kawasaki, Vice President/Sale Manager	808-244-7311	todd@mauichem.net	3/19/2019	Yes/Auto Approval	6/19/19	Deplete stock
12/21/18	Maui Chemical & Paper Products, Inc.	Todd Kawasaki, Vice President/Sale Manager	808-244-7311	todd@mauichem.net	3/19/2019	Yes/Auto Approval	6/19/19	Deplete stock
12/21/18	Safeway, Northern California Division	Sandi Takiguchi, Food Safety Specialist	808-551-5482	Sandi.Takiguchi@safeway.com				As of 12/26/18 waiting for exemption form
12/22/18	Friendly Market Center (Okimoto Corp)	Kit Okimoto	808-375-8386	kit@okimotocorp.com	N/A	Yes/Auto Approval	3/22/19	Deplete stock
12/24/18	Maui Chemical & Paper Products, Inc.	Todd Kawasaki, Vice President/Sale Manager	808-244-7312	todd@mauichem.net	N/A	Not Needed	N/A	Product considered raw, no exemption required
12/26/18	QSI Inc. dba Times Super Market	Eric Higa Times District Manager	808-831-0811 ext 207	EricH@times-supermarket.com	N/A	Yes/Auto Approval	6/29/19	Deplete stock
12/26/18	Minitstop	Kim Robello, Merchandising Manager	808-	krobello@ministop.com				As of 12/26/18 waiting for exemption form
12/26/18	Sun Noodle	Jennifer Shido, Quality Assurance Manager	808-841-5808	Jennifer@sunoodle.com	N/A	Yes/Auto Approval	11/30/19	Deplete stock
12/27/18	HIE Retail, LLC and Mid Pac Petroleum, LLC	Larry Hoggan	808-547-3895	LHoggan@pacific.com	N/A	Yes/Auto Approval	6/28/18	Deplete stock
12/27/18	L Kang Inc. dba Keok's Lau Lau	Michael Yonemura, President	808-832-4228	mikey@diamonheadseafood.com	N/A	Yes/Auto Approval	6/27/19	Deplete stock
12/28/18	VIP Food Service	Momi Kaikala, Director of Purchasing	808-877-5055	mkaikala@vipfoodservice.com	N/A	Yes/Auto Approval	3/28/18	Deplete stock
12/28/18	Island Grovery Depot	Brian Arakaki, Store Manager	808-877-1138	barakaki@islandgrocerydepot.com	N/A	Yes/Auto Approval	2/28/18	Deplete stock
12/31/18	Sullivan Family of Companies dba Foodland	Tiffany Baum, Sr Dir of Operations & Store Planning	808-739-3377	Tbaum@foodland.com	N/A	Yes/Auto Approval	7/4/19	Deplete stock
12/31/18	Wismettac Asian Foods	Hiro Ikejiri, Branch Manager	562-746-8896	hiro.ikejiri@wismettacusa.com	N/A	Yes/Auto Approval	6/30/19	Deplete stock
1/3/19	Pulama Lanai dba Richard's Market	Crimson Soberano, Manager	808-565-3786	csoberano@pulamalanai.com	N/A	Yes/Auto Approval	6/30/19	Deplete stock
1/4/19		Catherine Chase		catherinechase@yahoo.com	N/A			As of 1/4/19 waiting for exemption form
1/5/19	Nagasako Co., Ltd dba Nagasako General Store/Okazuya Deli	Richard Nagasako, President	808-661-0985	rnagasako001@hawaii.rr.com	N/A	Yes/Auto Approval	7/5/19	Deplete stock
1/7/19	Home Maid Bakery, Inc.	Jeanette Kozuki, Secretary	808-244-4150	jeanette@homemaiddbakery.com	N/A	Yes/Auto Approval	7/7/19	Deplete stock
1/9/19	Kahului Laundromat	Tom Nakayama, Manager	808-871-6670	tnakayama2323@gmail.com	N/A	Yes/Auto Approval	7/9/19	Deplete stock
1/9/19	Broker of Nissin/Nissin Foods USA	Jeff/katei Soong, VP of Sales	310-702-8171	jeff@lhqamble.com / ksong@nissinfoods.com	N/A	No		Requesting complete exemption. Cecile preparing response.
1/15/19	Hasegawa's General Store	Neil, Manager	808-248-8231	neilhasegawa@me.com	N/A	Yes/Auto Approval	10/28/19	Tamara received report that foam plates, cutps, etc. being sold at store. Called Neil, Mgr who asked if they could exhaust current supply. Will further discuss once he sends request with inventory and length of time requested. Deplete stock

POLYSTYRENE FOAM FOOD SERVICE CONTAINER EXEMPTION REQUESTS

[illegible]