

CARE Committee

From: Keola Whittaker <Keola.R.Whittaker@co.maui.hi.us>
Sent: Monday, June 21, 2021 10:40 AM
To: CARE Committee; James B. Forrest; Nicole A. Siegel
Cc: Graham Resell; Richelle Thomson
Subject: Suggested revisions to foam cooler ordinance
Attachments: Suggested revisions to foam cooler ordinance.docx

Follow Up Flag: Follow up
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James and Nicole,

Our recommended revisions to the proposed foam cooler ordinance are attached. We modeled the definition after other municipalities to fit with the intent of the ordinance. We also banned the sale of the coolers more generally, rather than just from food providers, since they can be sold by other types of entities. I hope this is helpful and do let us know if you have any questions.

I will be out of town during the June 30 CARE meeting, but First Deputy Richelle Thomson will be there to respond to any questions.

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ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.26, MAUI COUNTY
CODE, RELATING TO PLASTIC DISPOSABLE FOODWARE, TO INCLUDE
OTHER PLASTIC GOODS

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

SECTION 1. Because of its ability to break down into small and microscopic fragments that persist for decades, polystyrene foam coolers and ice chests have significant negative impacts on the environment and contribute to the potential death of marine animals and avian populations through ingestion.

By Ordinance 4457 (2017), the Council prohibited polystyrene foam food service containers, effective December 31, 2018. The Council finds that this prohibition has been effective in keeping such materials from entering the environment.

By Ordinance 5084 (2020), the Council prohibited plastic disposable foodware, effective January 1, 2022. The Council finds that this prohibition is also intended and will be effective in keeping such material from entering the environment and that further regulation is warranted.

The Council finds and declares that, to protect the County's unique environment and the health and welfare of its marine and avian life, and to prevent microplastics from entering the food chain, polystyrene foam coolers and ice chests must also be regulated.

SECTION 2. The title of Chapter 20.260, Maui County Code, is amended to read as follows:

“Chapter 20.26

PLASTIC DISPOSABLE [FOODWARE] GOODS”

SECTION 3. Section 20.26.020, Maui County Code, is amended to read as follows:

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

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

“Compostable” means materials that can 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.

“Foam cooler” means any cooler or ice chest made of polystyrene foam, where such foam is not fully encased in another impermeable material by its original manufacturer.

“Department” means the department of environmental management.

“Director” means the director of environmental management.

“Disposable” means something designed to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple re-use.

“Foodware” means food service containers and utensils.

“Food provider” means any 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.

“Person” means any person, business, corporation, or event organizer or promoter; public, nonprofit or private entity, agency or

institution; or partnership, association or other organized group, however organized.

“Plastic” means any material made, in whole or in part, from petroleum or petrochemical compounds, including so-called biodegradable products, where any portion is not compostable. “Plastic” also means all forms of polystyrene, polyethylene, polypropylene, and polycarbonate, or petrochemical polymeric compounds and additives that can be shaped by flow.

“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).

“Prepackaged food” means food and beverages contained in plastic disposable foodware that has been filled and sealed entirely outside the County or in a manner intended to prevent the food or beverage from having any direct human contact, such as shelf-stable food and beverages; condiment packets, poi bags, musubi wraps, plastic film, chip bags, cookie and cracker wrappers, bread bags, meal kits, ice bags; beverage-related bottles or cartons; packaging for unprepared food; and packaging for wholesale distribution of prepared food, baked goods, and dairy products.

“Prepared food” means any food or beverage prepared for consumption using any cooking or food preparation technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, or otherwise prepared for consumption. “Prepared food” includes restaurant-style food and beverages that are packaged after being ordered and ready for consumption without further preparation.

“Shelf-stable food” means prepared food that can be stored at room temperature and does not require refrigeration, freezing, or heating for food safety purposes.

“Utensils” means implements used in the consumption of food or drink, such as forks, knives, spoons, straws, coffee stirrers, cocktail picks, and chopsticks, excluding those contained within or attached to prepackaged food.”

SECTION 4. Section 20.26.040, Maui County Code, is amended to read as follows:

“20.26.040 Prohibitions. Except as provided in section 20.26.050:
A. Food providers must not sell, use, provide, or offer the use of plastic disposable foodware.

B. Plastic disposable foodware must 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. Plastic disposable foodware must not be sold, used, provided, or offered for sale or sold in the County.

D. [Nothing in this chapter precludes food providers from using or making available non-plastic alternative utensils, such as those made from paper, sugar cane, or bamboo; except, however, that non-plastic utensils must only be provided upon the request or affirmative response of a person being provided the prepared food or beverage or in a self-service area or dispenser.] No person shall sell or offer for sale foam coolers.

E. Nothing in this chapter precludes food providers from using or making available non-plastic alternative utensils, such as those made from paper, sugar cane, or bamboo; except, however, that non-plastic utensils must only be provided upon the request or affirmative response of a person being provided the prepared food or beverage or in a self-service area or dispenser.”

SECTION 5. Section 20.26.090, Maui County Code, is amended to read as follows:

“20.26.090 - Effective date. Except for polystyrene foam food service containers, the prohibitions of this chapter related to plastic disposable foodware and foam coolers take effect January 1, 2022.”

SECTION 6. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

LF2021-0007
2021-06-18 Ord Amd Ch 20 v2