

## **Disposable Food Ware Ordinance (DFWO, [Ordinance 19-30](#))**

### **Frequently Asked Questions**

#### **Questions Regarding the Amendments to the Plastic Bag Ban (Section 2 of the DFWO):**

**1. Who is impacted by the City and County of Honolulu Plastic Bag Ban (ROH Chapter 9, Article 9)?**

All businesses operating in the City and County of Honolulu must comply. For general frequently asked questions, see the Plastic Bag Ban page on opala.org:

[https://www.opala.org/solid\\_waste/archive/plastic\\_bag\\_ban.html](https://www.opala.org/solid_waste/archive/plastic_bag_ban.html)

**2. What types of bags can be utilized for Exemptions A and B?**

For Exemptions A and B, exempt bags only include “handle-less plastic bags” (see Section 9-9.1 of the Plastic Bag Ban). Additionally, businesses can provide “non-recyclable paper bags” with or without charge to protect or transport prepared foods, beverages, or bakery goods (see Section 9-9.2 of the Plastic Bag Ban). For Exemptions C-G, any type of bag may be utilized.

**3. Regarding Exemption B, handle-less plastic bags can be provided to contain dampness. What is meant by “dampness”?**

Handle-less plastic bags may be provided to contain items that are damp and not packaged (like an unpackaged donut), or items that become damp through condensation or steam that escapes a container (like a pint of ice cream or hot soup with vent holes).

**4. Can hotels still provide bags to contain wet or dirty clothing?**

Yes. The Plastic Bag Ban does not affect bags in this situation since there is no point of sale.

**5. How are “food-related bags or wrappers” regulated?**

The Plastic Bag Ban only regulates carry-out bags. The DFWO does not regulate food-related bags or wrappers (see the definition of “plastic food ware”). Therefore, food-related bags or wrappers are not regulated by the Plastic Bag Ban or the DFWO. Food vendors may still provide plastic musubi wraps, poi bags, chip bags, cracker and cookie wrappers, bread bags, meal kits, ice bags, plastic film, etc.

#### **Questions Regarding Food Ware and Service Ware:**

**6. Who is impacted by the City and County of Honolulu’s DFWO?**

Effective January 1, 2021, food vendors will be impacted by the DFWO. This includes any entity or person selling or providing prepared food for consumption within the City and County of Honolulu, including any store, shop, sales outlet, pharmacy, restaurant, bar, pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, food truck, catering vehicle or cart, roadside stand, or other establishment that sells or provides prepared food for consumption within the City. Additionally, businesses will be impacted by the DFWO amendments to the Plastic Bag Ban, effective January 1, 2021.

Effective January 1, 2022, all businesses will be impacted by the DFWO (in addition to food vendors). This includes any commercial enterprise or establishment operating in the City and County of Honolulu, including an individual proprietorship, joint venture, partnership, corporation, limited

liability company, or other legal entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

## **7. What items are regulated by the DFWO?**

All polystyrene foam food ware, disposable plastic food ware, disposable plastic service ware, and disposable service ware are subject to restrictions, unless exempted. The DFWO also regulates carry-out bags through an amendment to the O'ahu Plastic Bag Ban.

## **8. What items are exempt from the DFWO?**

The following are exempt from Section 41-27.2 restrictions:

- Packaging for raw meat, raw poultry, raw seafood, unprepared produce, and uncooked eggs; packaging for prepackaged food, shelf stable food, and catered food; and packaging for City-deemed emergencies (see Section 41-27.3(d)).

The following are exempt from Section 41-27.4 ban on sale:

- Packaging for raw meat, raw poultry, raw seafood, unprepared produce and uncooked eggs; packaging for prepackaged food and shelf stable food; and non-compliant products sold to a food vendor who has been granted an exemption for products under Section 41-27.3 (see Section 41-27.4 (a)).

The following entities are exempt from Section 41-27.2(b) restrictions, specific to disposable plastic straws:

- Hospitals, nursing facilities, assisted living facilities, adult residential care homes, hospice service agencies, hospice homes, home health agencies, and home care agencies (see Section 41-27.3 (c)).

The following items are not regulated by the DFWO:

- Disposable plastic condiment packets; food-related bags or wrappers, including, but not limited to musubi wraps, plastic film, poi bags, chip bags, cracker and cookie wrappers, bread bags, meal kits, or ice bags; beverage-related bottles or cartons; non-plastic cups that contain a polyethylene or plastic coating; packaging for unprepared food; and packaging for wholesale distribution of prepared food, baked goods or dairy products. See the definition of "plastic food ware."
- Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use; soup or noodles packaged with polystyrene foam that has been filled and sealed prior to receipt by the food vendor. See the definition of "polystyrene foam food ware."
- Items contained within or attached to packaging of food or beverages, including but not limited to, disposable utensils pre-packaged and sold with ice cream or salads. See the definition of "service ware."

The DFWO amended six of the O'ahu Plastic Bag Ban exemptions. Please visit the [Plastic Bag Ban page](#) on opala.org for details on these exemptions.

## **9. How can I file for an industry exemption, exemption for significant hardship, or exemption for situations where there are no reasonable alternative products?**

Visit the [DFWO page](#) on opala.org for the exemption application, exemption application frequently asked questions, and for information on the exemption process (see ENV Administrative Rules Subchapter 5).

## **10. What makes an item "disposable"?**

There are two ways in which an item may be considered "disposable" (as noted in the manufacturer's specifications):

- An item designed to be discarded after a single use and not designed or manufactured for long-term re-use, or

- An item designed to be discarded after a limited number of uses and not designed or manufactured for long-term multiple re-use.

**11. How much plastic can a compliant product contain? What if there’s a plastic sticker placed on the product?**

The ordinance applies to the product itself and not a sticker placed on the container. The product itself must be free of plastic to be compliant. Plastic is defined as “any material made of fossil fuel-derived or petrochemical polymeric compounds and additives that can be shaped by flow.” To prove that your product contains no plastic, ask the manufacturer for the Safety Data Sheet (SDS), which shows the composition. You may email the SDS to [businessrecycle@honolulu.gov](mailto:businessrecycle@honolulu.gov) to have it officially verified and recorded.

**12. Does the definition of “service ware” only include “stirrers, straws, baran, and utensils including forks, spoons, sporks and knives”?**

Service ware also includes other implements intended to assist in the consumption of food or drink. Some examples include cocktail food picks, kebob sticks, seafood shellers, and chopsticks.

**13. When can disposable service ware be provided to customers?**

Food vendors may only provide disposable service ware that is non-plastic; this non-plastic service ware may only be provided:

- upon the request or affirmative response of a customer or person being provided prepared food or beverage, or
- in a self-service area or dispenser.

If the food vendor has disposable service ware in a self-service area or dispenser, the customer can take it without any verbal exchange.

**14. Is prepackaged service ware exempt?**

During an establishment’s prepackaging process, service ware may be contained within or attached to packaging of food or beverages. Some examples include juice boxes and prepackaged salads. This applies to prepackaged food only, not prepared food that is ordered.

**15. Is plastic wrapping around utensils or containers (plastic-wrapped straws, plastic-wrapped chopsticks) covered by the DFWO?**

Plastic wrapping is not considered plastic food ware or service ware, and therefore is not impacted by the DFWO.

**16. What is “shelf stable food”? Is a plate lunch considered shelf stable?**

Shelf stable food is a type of prepared food that can be stored safely at room temperature for a minimum of four weeks and does not require refrigeration, freezing, or heating for food safety purposes, prior to purchase by a customer. A plate lunch is considered “prepared food,” not shelf stable food.

**17. What is the minimum serving size for a product to be considered “catered food”?**

Catered food is the provision of prepared food in bulk quantity amounts or multiple servings with the intent for later consumption, or the service of prepared food at a site or event venue. A bulk quantity amount is sufficient to feed a minimum of 5 individuals, in which the serving sizes are equivalent to a full a la carte portion on the vendor’s menu (5 full servings or more total). Catered food must be paid for or contracted in advance.

**18. If prepared food (like a plate lunch) is ordered and then put inside a container *before* the sale/transaction, is it considered prepackaged or prepared food? What about takeout food from a restaurant or food bar, or food ordered through a delivery service that's transported to a house?**

In all of these situations, the food is considered prepared food and must comply with the ordinance. Whether or not a food is considered prepared or prepackaged depends on *when* it was packaged. If a prepared food is packaged *after* being ordered, then it is a prepared food. If a prepared food is prepackaged *prior to being provided for sale*, then it is a prepackaged food.

**19. How are pie containers regulated (including single slices, whole pies, packaged, unpackaged, etc.)? When are they considered prepared food or prepackaged food?**

Whether the pie is a slice or a full pie does not matter. Whether the pie is considered prepared or prepackaged depends on *when* it was packaged. If a pie is packaged *after* being ordered, it is a prepared food. This includes telephone orders as well as ordering an unpackaged pie from a display case. If the pie is prepackaged *prior to being provided for sale* (like packaged pies on display), it is a prepackaged food.

**20. What are the regulations of unprepared whole fruits and vegetables versus chopped fruits and vegetables?**

Packaging for unprepared produce is exempt. Chopped produce is considered "prepackaged food" when it is packaged *prior to being provided for sale*. Chopped produce is considered "prepared food" when it is packaged *after* being ordered, like in a deli case.

**21. How are poke containers regulated?**

Food ware for prepared food is regulated, while food ware for raw seafood is exempt. By definition, poke is considered prepared food; therefore it is not exempt. Raw seafood includes seafood that is not ready to be consumed and that needs further preparation (example: whole fish or fillets). If poke is prepackaged *prior to being provided for sale*, it is exempt.

**22. Is food packaged by a central kitchen operator considered prepared and subject to the DFWO?**

A central kitchen must comply with the DFWO if it is preparing food for consumption on or off the premises of a food vendor or otherwise processing at premises owned, leased, or otherwise controlled by the food vendor. See question #8 for exemptions.

Whether or not the food coming from a kitchen is considered prepared or prepackaged depends on *when* it was packaged. If a prepared food is packaged *after* being ordered, then it is a prepared food. If a prepared food is prepackaged *prior to being provided for sale*, then it is a prepackaged food. Examples of prepackaged foods include pre-made sandwiches, pre-made sushi, and pre-made salads previously sealed, contained, or wrapped to protect and prevent the food from having any direct human contact. Usually these prepackaged items are labelled and displayed so that customers can grab the one they want.

**23. Do home delivery services have to comply with the DFWO?**

Food delivery services must comply with the DFWO (and the Plastic Bag Ban).

**24. Do schools have to comply with the DFWO?**

Both private schools and public schools must comply with the DFWO (and the Plastic Bag Ban), unless there is a state or federal preemption.

**25. Do federal entities and state entities have to comply with the DFWO?**

Federal entities and state entities within the City and County of Honolulu must comply with the DFWO (and the Plastic Bag Ban), unless there is a state or federal preemption.

**26. What happens if a food vendor or business is in violation?**

To verify compliance, ENV will investigate complaints from the public as well as conduct random inspections of food vendors and affiliated businesses. For those found to be in violation, ENV will assist the establishment in becoming compliant. If no effort is made to correct the violation, the establishment may receive a civil fine of \$100 to \$1000 for each day of violation.

**27. How is the City helping distributors understand the DFWO since they sell food ware and service ware?**

ENV provides education and outreach to help food vendors, businesses, and distributors understand and comply. Distributors may voluntarily submit Safety Data Sheets (SDS) to [businessrecycle@honolulu.gov](mailto:businessrecycle@honolulu.gov) to get products verified for compliance by ENV.

**28. Is the DFWO translated into different languages?**

The [DFWO page](#) on opala.org has a “Translatable Disposable Food Ware Ordinance” link. The link takes you to another [page](#), where you can click “Translate” in the upper right hand corner to choose between languages.

For further clarification, visit the DFWO page at:

[https://www.opala.org/solid\\_waste/disposable\\_food\\_ware\\_ordinance.html](https://www.opala.org/solid_waste/disposable_food_ware_ordinance.html)

or contact a Recycling Specialist at [businessrecycle@honolulu.gov](mailto:businessrecycle@honolulu.gov) or 768-3200 ext. 6.