

**REVISED: February 13, 2020**

## **Plastic and Marine Hazards Reduction Bylaw**

### **Preamble**

Eastham, surrounded by ocean and bay, salt marsh and an abundance of freshwater ponds, has a long and rich history of reliance on these resources for food, recreation, drinking water, tourism and other economic opportunities. This Bylaw recognizes the importance of preserving these natural resources and the plants and animal life they contain for current and future generations and seeks to reduce the reliance on single-use plastics by residents and visitors within the Town of Eastham. It further seeks to reduce the hazard to wildlife caused by balloons filled with lighter-than-air gases.

Eight million tons of plastic waste are added to the world's oceans every year, joining the estimated 150 million tons already floating on the ocean currents. These plastics are increasingly recognized as a hazard to marine life, navigation, and the human food chain. Once plastic is in the oceans and waterways, there is no practical way to remove it and it doesn't degrade. It will remain for 500 to 1000 years, eventually breaking down into smaller and smaller fragments but never disappearing.

Americans generate some 10 million tons of plastic waste each year. Massachusetts residents alone use two billion plastic bags a year, or about one bag per person per day. These plastic bags are mostly made out of polyethylene, which is a byproduct of petroleum and natural gas. Petroleum and natural gas are two of the primary contributors to global warming and climate change.

Polystyrene is also created from petrochemicals. The foam form of polystyrene in particular is often mistaken for food by both domesticated and wild animals. Birds may also use the foam for nesting material. It does not biodegrade. It fragments into smaller and smaller bits, called microplastics. Polystyrene is rarely recycled. The bulky foam form of polystyrene is not accepted in recycling programs in Massachusetts and most other places. Because the foam is 95% air and often contaminated with food residue, recycling is impractical. The rigid form of polystyrene is rarely recycled, even when it makes it into a recycling center. Thus, they create a burden for solid waste collection and recycling centers.

Some marine animals, such as sea turtles that eat jellyfish, mistake plastic bags and balloons for food. Once ingested it can become stuck in the esophagus, causing suffocation. When it enters the stomach, it can impede their ability to absorb and process nutrients, leading to malnutrition and death from starvation. Balloon strings can entangle marine and terrestrial wildlife and potentially harm the digestive tracts of sea turtles. Recent research shows that plastic is present in all species of sea turtles, from post-hatchling stages to adults. Just a small amount can kill a turtle. Plastic has also been found in six out of ten sea birds, and in the stomachs of whales, dolphins and other marine mammals.

Plastic in the ocean doesn't degrade, it fragments into smaller pieces and becomes what is known as microplastics and microfiber plastics. These are ingested by a wide variety of marine animals from zooplankton, oysters, and fish to whales. The microplastics replace food for these animals, and enter the food chain, of which we are a part.

Given the impact that plastics and balloons have on the natural world, this Bylaw seeks to reduce their use within the Town of Eastham. Affordable replacements that are more environmentally friendly and sustainable are readily available.

### **Section 1: Definitions**

“Checkout Bag” shall mean a carryout bag with handles provided by a Retail Establishment to a customer at the point of sale.

“Polystyrene” shall mean blown Polystyrene (Polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead Polystyrene), injection molding, form molding, and extrusion blown molding (extruded foam Polystyrene), sometimes called Styrofoam, a Dow Chemical Co. trademarked form of Polystyrene foam. It bears the recycling number 6.

“Food Establishments” shall mean any operations including without limitation, restaurants, schools, farmers markets, and other public venues that store, prepare, package, serve, vend and otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000 et. seq., shall be considered a Food Establishment for the purposes of this bylaw.

“Lighter-Than-Air Gas” shall mean a gas that is buoyant in air because it has a density less than air (including but not limited to helium gas). Herein, Helium will be used interchangeably with Lighter-Than-Air Gas.

“Retail Establishment” shall mean any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores, and bazaars or festivals.

“Plastic Straw” shall mean any single-use thin plastic tube that is meant to allow its user to more conveniently consume a beverage, including but not limited to those made from polyethylene, polypropylene and Polystyrene.

“Polystyrene Disposable Food Services Containers and Cutlery” shall mean single-use disposable products made from Polystyrene for serving or transporting food or beverages, including without limitation take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes but is not limited to plates, cups, bowls, trays, hinged or lidded containers, straws, stirrers, cup lids, and cutlery. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays.

“Public Venues” shall mean facilities available for public use without charge including but not limited to meeting halls, churches, Town offices, Recreation Department, Library and schools.

### **Section 2: Plastic Checkout Bag Reduction**

The Town will phase out single-use plastic Checkout Bags effective November 1, 2020.

**1. Requirements**

- A. Retail Establishments are free to provide whatever checkout bag they wish to customers as long as it is not made of plastic. Durable bags made from polypropylene or polyester intended for long-term reuse are still permitted.
- B. The Board of Health may promulgate rules and regulations to implement this section.
- C. The requirements of this section shall be effective from November 1, 2020. Any old stock not used by November 1, 2020 will be accepted by the Eastham Transfer Station free of charge for appropriate disposition until November 30, 2020.

**2. Enforcement**

This bylaw may be enforced by any Town of Eastham Police Officer, Health Agent or her designee, and any agents designated by the Select Board.

**3. Violations**

Enforcement of fines will begin on November 1, 2021.

- First Offense: Written warning
- Second Offense: \$200 fine
- Third and Subsequent Offenses: \$500.

Each day or portion thereof that a violation continues shall constitute a separate offense. Each offense occurring within two years of the date a prior reported offense will be considered a subsequent offense.

**Section 3: Polystyrene Reduction**

The Town of Eastham will phase out the use of Polystyrene, Plastic Straws, and Polystyrene Disposable Food Services Containers and Cutlery, effective November 1, 2020.

**1. Requirements.**

- A. Polystyrene, Plastic Straws, and Polystyrene Disposable Food Services Containers and Cutlery including foam packing peanuts and Polystyrene foam coolers (including “Styrofoam” coolers), shall not be used or sold or distributed by Food establishments and/or Retail Establishments within the Town of Eastham as of November 1, 2020. Any stock remaining after that date shall be accepted for disposal free of charge at the Eastham Transfer Station for proper disposal, through November 30, 2020.
- B. This Bylaw shall not apply to polystyrene packing peanuts and foam packaging reused from shipments coming into Eastham; prepackaged meat and produce trays, egg cartons and other foods or beverages bought from a wholesaler or out-of-town supplier, or polystyrene foam freezer chests enclosed in durable rigid plastic.

- C. Accommodation for disabled residents and visitors: In recognition of the needs of disabled citizens and visitors, businesses shall make available on demand bendable Plastic Straws. They may not question patrons about their disabilities nor demand proof of disability. The Eastham Senior Center is exempt from the provisions of this Bylaw concerning plastic drinking straws.
- D. Single-use service containers and cutlery, including but not limited to bowls, cups, trays, and plates, must be 100% recyclable or compostable in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste. Compostable products requiring a commercial composting facility or a composting facility where temperatures reach 140°F may not be used until such time as the residents and businesses in Eastham have reliable access to such facilities as determined by the Select Board or its designees.

**2. Enforcement:**

This bylaw may be enforced by any Town of Eastham Police Officer or designee, or any agent designated by the Select Board.

**3. Violations:**

Enforcement of fines will begin on November 1, 2021.

First Offense: Written warning

Second Offense: \$200 fine

Third and Subsequent Offenses: \$500 fine

Each day or portion thereof that a violation continues shall constitute a separate offense. Each offense occurring within two years of the date of a prior reported offense will be considered a subsequent offense.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw.

**Section 4: Balloon Ban**

Balloons filled with Lighter-Than-Air Gas (including but not limited to Helium) and their strings constitute a public nuisance creating litter along our beaches and in our salt marshes and pose a danger to sea turtles, marine mammals, marine and terrestrial birds, and to small wildlife. Mylar balloons, when tangled with power lines, can cause power outages. Therefore, the Town of Eastham will ban the sale, distribution, and intentional release of Helium balloons as of November 1, 2020.

Effective November 1, 2020, no person shall sell or distribute to the public, any type of balloon (including but not limited to plastic, latex, rubber or Mylar balloons) inflated with any type of Lighter-Than-Air Gas. This includes so-called Chinese Floating Lanterns. No businesses or events shall use balloons with Lighter-Than-Air Gas as advertising props.

No person shall intentionally release, or cause to be released, any balloon into the air in the Town of Eastham. No person shall throw, deposit, discard or otherwise discharge inflated or uninflated balloons into any street, alley, waterway, park, beach or other public place in the Town of Eastham.

**1. Exemptions:**

The launching of balloons inflated with Lighter-Than-Air Gas by government agencies or scientific research organizations is allowed. This law does not apply to dirigibles or lighter-than-air aircraft which are intended to be recovered after use.

**2. Enforcement:**

This bylaw may be enforced by any Town of Eastham Police Officer, Natural Resources Officer, or any agent authorized by the Select Board.

**3. Violations:**

Enforcement of fines will begin on November 1, 2021.

First Offense: Written warning

Second Offense: \$200 fine

Third and Subsequent Offenses: \$500 fine

Each day or portion thereof that a violation continues shall constitute a separate offense. Each offense occurring within two years of the date of a prior reported offense will be considered a subsequent offense. Each balloon may constitute a separate offense.

**Section 5: Severability**

If any provision of this Bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.