**The Beyond Plastics Bill: A Model Local Law To Reduce the Use of Polystyrene and Plastic Bags, Straws, Stirrers, and Splash Guards, and Prevent the Release of Plastic Balloons**

*February 2021*

**Section 1. Definitions.**As used in this section, the following terms have the following meanings, unless the context clearly indicates otherwise:

1. “Department” means the [INSERT NAME OF LOCAL AGENCY] ;
2. “Disposable food container” means a container, bowl, plate, tray, carton, cup, lid, or other item designed for one-time use for foods and includes all foodware for take-out foods and leftovers from partially consumed meals prepared by food vendors;
3. “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including but not limited to any establishment requiring a permit to operate in accordance with the State Food Code;
4. “Plastic” means an organic or petroleum derivative synthetic or a semisynthetic organic solid that is moldable, and to which additives or other substances may have been added;
5. “Polystyrene” means and includes any food packaging or other packing materials made from a styrene monomer, including but not limited to: expanded polystyrene (EPS) which is a thermoplastic petrochemical material 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-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene, which is known as “oriented polystyrene”;
6. “Polystyrene foam” means blown polystyrene and expanded and extruded foams using polystyrene;
7. “Post-consumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Post-consumer recycled material does not include materials and byproducts generated from, and commonly reused within an original manufacturing and fabrication process;
8. “Recyclable” with regard to a material, means a material that would otherwise be disposed of or processed as waste can be recovered, separated, collected, and reprocessed for the purpose of using the reprocessed material in the manufacture of a new product;
9. “Recycled paper bag” means a paper bag that (i) contains a minimum of 50 percent post-consumer recycled content; and (ii) is 100 percent recyclable;
10. “Reusable bag” means a sewn bag with stitched handles that is (i) not made of plastics; (ii) specifically designed and manufactured for at least 175 uses; (iii) can carry 25 pounds over a distance of 300 feet, and (iv) is machine-washable;
11. “Retail sales establishment” means any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to a customer, whether for profit or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, clothing stores, hardware stores, department stores, jewelry stores, and household goods stores;
12. “Single-use carryout bag” means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale that is not a recycled paper bag or a reusable bag;
13. “Single-use plastic straw” means a single-use, disposable tube made of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage.
14. “Single-use plastic straw” shall not include straws made from non-plastic materials, including, but not limited to metal, glass, paper, pasta, sugar cane, wood, or bamboo;
15. “Reusable straw” shall not be made from plastic;
16. “Single-use plastic stirrer” means a device used to mix beverages that is designed as a single-use product and made of plastic;
17. “Single-use plastic splash stick” means a device that fits into the sip-hole of a beverage container lid, intended to prevent a beverage from splashing, that is made of plastics and designed as a single-use product.
18. “Balloon” means an inflatable object made from the following materials, including but not limited to: plastic, latex, Mylar, metallized nylon, and metallized plastic.

**Section 2. Prohibition of Polystyrene, Plastic Bags, Straws, Stirrers & Splash Guards.**

1. After (insert date), no business or person may sell or provide in (insert name of locale) any food ware product composed in whole or in part of polystyrene:
	1. No Retail Establishment, Food Distributor, or Food Packager shall serve or sell prepared food or beverage in polystyrene containers and shall not package meats, eggs, bakery products, fruits or vegetables, or other food in polystyrene containers.
	2. No Retail Establishment that sells tangible personal property at retail shall sell or distribute polystyrene food or beverage containers.
	3. No polystyrene food or beverage container shall be used in any government facility or at any government sponsored event.
	4. No government department or facility shall purchase or acquire polystyrene food or beverage containers.
	5. All parties who contract with the government shall be prohibited from using polystyrene food and beverage containers in government facilities or on government-funded projects within (insert name of locale).
2. After (insert date), no person may sell or provide in (insert name of locale) any packing material products composed in whole or in part of polystyrene, including, but not limited to, polystyrene packing peanuts.
	1. No Retail Sales Establishment that sells tangible personal property at retail shall sell or use polystyrene packaging;
	2. No polystyrene packaging materials shall be used in any government facility or government sponsored event;
	3. No government department or facility shall purchase or acquire polystyrene packaging materials;
	4. All parties who contract with the government shall be prohibited from using polystyrene packaging materials in government facilities or on government-funded projects within (insert name of locale).
3. Except as provided in this section after (insert date), a Retail Sales Establishment shall not provide a plastic carryout bag to a customer at the point of sale or otherwise make plastic bags available to customers. This prohibition does not apply to:
	1. Non-handled bag used to protect items from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable grocery bag;
	2. Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, small hardware items; bags used to contain or wrap frozen foods, meat and fish, flowers or potted plants, or other items to contain dampness;
	3. Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
	4. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste;
	5. Bags used to contain or transport live animals, such as fish or insects sold in pet stores;
	6. Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.
4. After (insert date), a food establishment shall not provide a plastic straw to a customer, unless that customer requests a plastic straw.
5. After (insert date), a food establishment shall not provide a plastic stirrer to a customer.
6. After (insert date), a food establishment shall not provide a plastic splash stick to a customer.

 **Section 3. Reusable Bags, Recycled Paper Bags.**

1. After (insert date), a Retail Sales Establishment shall make available a paper bag for a fee of no less than $0.10 per bag.
2. After (insert date), a retail sales establishment may make available a reusable bag for purchase.
3. A Retail Sales Establishment which collects a bag charge under Section 3(a) shall exempt a customer from the paper bag fee when that customer uses an electronic benefits transfer (EBT) card or is using a payment card or voucher issued by the Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).
4. Fees collected pursuant to this section shall be divided in half, with one half being retained by the retail sales establishment and one half being given to the local government body that adopted the law. The local government portion of collected fees shall be used to purchase non-plastic, reusable bags to be made available to low-income residents and senior citizens and/or to support local recycling programs.

**Section 4. Implementation.**

1. After (insert date), the municipal (insert name of local Department) shall design and post for free usage on the municipal website educational materials for display in retail establishments. Educational materials shall include, but not be limited to; (i) an announcement of the effective date of this ordinance; (ii) a reminder to bring reusable bags; and (iii) a reminder of the mandatory fee of $0.10 or more charged on paper and reusable bags.
2. After (insert date), the municipal (insert name of local Department) shall issue a news release including (i) an announcement of the effective date of this ordinance; (ii) a reminder to bring reusable bags; and (iii) a reminder of the mandatory fee of $0.10 or more charged on paper and reusable bags.
3. The municipal (insert name of local Department) shall provide a written notice to each affected establishment prior to the effective date of this ordinance.
4. The Commissioner of (insert name of local Department) may promulgate rules and regulations to implement Sections 2 and 3 of this Chapter.
5. A Retail Sales Establishment affected by regulations pursuant to Section 2(b) of this ordinance shall clearly and visibly display at the store entrance and at each check-out counter or register signage developed by the (insert name of local Department), as described in Section 3(f) of this ordinance.
6. Food establishments required to only provide straws upon request shall clearly and visibly display signage developed by the (insert name of local Department), as described in Section 2(e) of this ordinance.

**Section 5. Prohibition of Plastic Balloon Releases.**

* 1. After (insert date), no person shall knowingly release or intentionally cause to be released outdoors any plastic balloon constructed of electrically conductive material and filled with helium or a gas lighter than air.
	2. After (insert date), no person shall knowingly release or intentionally cause to be released outdoors, within a twenty-four hour period, five or more plastic balloons constructed of non-electrically conductive material and filled with helium or a gas lighter than air. Sections (a) and (b) shall not apply to:
		1. Balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or test by a person on behalf of an experiment or test or by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; or
		2. Occupied hot air balloons or hot air balloons that will be recovered after release.

**Section 6. Enforcement Penalty.**

1. Upon being made aware of a potential violation of this ordinance, the (insert name of local Department) shall determine whether a violation has occurred;
2. If it is confirmed that a violation has occurred, the (insert name of local Department) shall give written notice to the owner of the property, the owner’s agent, and/or the person committing the violation that the violation is occurring and must immediately cease;
3. If an additional violation of this ordinance has occurred within one month after a warning notice is issued for an initial violation, the (insert name of local Department) shall issue a notice of violation and shall impose a penalty against the retail establishment;
4. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than;
	1. $1,000 for the first offense;
	2. $2,000 for the second offense and all subsequent offenses.

Payment of such fines may be enforced through civil action.