

Summary: This ordinance prohibits the intentional outdoor release of balloons, lanterns, and similar devices. This ordinance also prohibits the act of leaving tethered balloons, lanterns, and similar devices unattended outdoors. Finally, the ordinance requires retailers of balloons and other floating devices to display a conspicuous sign at the point of display or the point of sale that notifies potential purchasers about the municipality's prohibitions on the outdoor release, unattended tethering, or abandonment of balloons and other floating devices, as well as the fine for engaging in any of these activities.

Ordinance No. ####-##

Ordinance to Prohibit the Intentional Outdoor Release of Balloons, Sky Lanterns, Aerial Luminary Lanterns, and Similar Devices and to Prohibit Outdoor Unattended Tethered Balloons, Sky Lanterns, Aerial Luminary Lanterns, and Similar Devices

WHEREAS, releasing balloons, sky lanterns, aerial luminary lanterns, and similar devices outdoors, and leaving tethered balloons, sky lanterns, aerial luminary lanterns, and similar devices unattended outdoors presents danger and unnecessary risk to the environment, particularly to wildlife and marine animals; and

WHEREAS, many animals are attracted to the bright colors of balloons and mistake them for food, which can cause severe injury or death;¹ and

WHEREAS, many more animals become entangled in tethering materials, such as strings and ribbons attached to balloons and similar devices, and are injured or strangled to death as a result;² and

WHEREAS, the chemical composition of Mylar and latex prevents balloons from biodegrading, instead breaking down into tiny fragments known as microplastics and nanoplastics that are consumed by fish and bio-accumulate in the food web, which threatens public health and safety;³ and

¹ *Balloon Ban Response*, LOGGERHEAD MARINELIFE CTR. (Feb. 17, 2017), <https://marinelife.org/2017/02/17/balloon-ban-response/>.

² *Id.*

³ Marine Debris Program Office of Response and Restoration, *Balloons - Mylar*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN. (June 16, 2022), <https://marinedebris.noaa.gov/plastic/balloons-mylar>; Morgan Gilmour and Jennifer Lavers, *We composted 'biodegradable' balloons. Here's what we found after 16 weeks*, THE CONVERSATION (Aug. 16, 2020), <https://theconversation.com/we-composted-biodegradable-balloons-heres-what-we-found-after-16-weeks-138731>.

WHEREAS, inflated balloons and other devices may become entangled in electric power cables, leading to power outages, danger to linemen, utility equipment damage, and fires;⁴ and

WHEREAS, helium is extremely rare on Earth and already in high demand for its known medical and scientific uses;⁵ and

WHEREAS, once helium is released, it escapes through the atmosphere and cannot be recovered;⁶ and

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected over 5,234 balloons in 2021 from 70 locations along the Jersey Shore, and have collected over 77,000 balloons from the Jersey Shore since 1999;⁷ and

WHEREAS, the Municipal Council finds that the prohibition on the intentional outdoor release of balloons, sky lanterns, aerial luminary lanterns, and similar devices, as well as on leaving tethered balloons and similar devices unattended outdoors in the [TOWN NAME] is a public benefit because the reduction in the use of these devices will reduce litter and marine debris and help protect the marine environment, advance plastic and solid waste reduction, and keep waterways and communities clean; and

NOW, THEREFORE, the Mayor and Council and the [TOWN DESIGNATION] of [TOWN NAME] do hereby ordain as follows:

SECTION I: Definitions – as used in this Ordinance

- A. “Intentional release” means to be done or brought about of one’s own will.
- B. “Aerial luminary lantern” means any device designed to be airborne upon release into the environment regardless of fuel source; includes sky lanterns.
- C. “Balloon” means a bag made of thin rubber, Mylar, or other light material inflated with air or with some lighter-than-air gas.
- D. “Tethered” means affixed with a string, ribbon, or other material as to restrict movement.
- E. “Untethered” means free from tether.

⁴ *Mylar Balloons Causing 26% More Power Outages Over Past Five Years*, PSE&G (July 31, 2020), <https://nj.pseg.com/newsroom/newsrelease178>.

⁵ *About Helium*, BUR. LAND MGMT. (last accessed June 16, 2022), <https://www.blm.gov/programs/energy-and-minerals/helium/about-helium>.

⁶ Juan Siliezar, *Global helium shortage slams brakes at Harvard labs*, THE HARVARD GAZETTE (June 13, 2022), <https://news.harvard.edu/gazette/story/2022/06/helium-shortage-4-0-makes-its-way-to-harvard/>.

⁷ *Beach Sweeps Report 2021*, CLEAN OCEAN ACTION 11 (2022), https://cleanoceanaction.org/fileadmin/editor_group2/Beach_Sweeps/2021_Beach_Sweeps_Report__Final_.pdf.

SECTION II: Prohibition of Intentional Outdoor Release of Balloons, Sky Lanterns, Aerial Luminary Lanterns, or Similar Devices

- A. It shall be unlawful for any person, firm, or corporation to intentionally release, organize the release, or intentionally cause to be released outdoors balloons, sky lanterns, aerial luminary lanterns, or similar device within the [insert jurisdiction] except for:
 - a. Balloon released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; and
 - b. Hot air balloons that are recovered after launching; and
 - c. Parade balloons; and
 - d. Balloons released indoors.
- B. Any person or entity that violates this section shall be subject to a civil penalty of between \$100 and \$500 for each offense. A single offense for the purpose of this section shall be considered the release of one or more balloons, sky lanterns, aerial luminary lanterns, or similar devices.

Section III: Prohibition of Leaving Tethered Balloons, Sky Lanterns, Aerial Luminary Lanterns, or Similar Devices Unattended Outdoors

- A. It shall be unlawful for any person, firm, or corporation to tether without supervision or abandon balloons, sky lanterns, aerial luminary lanterns, or similar device within the [insert jurisdiction] except for:
 - a. Balloon tethered by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; and
 - b. Hot air balloons that are recovered after launching; and
 - c. Balloons tethered indoors.
- B. Any person or entity that violates this section shall be subject to a civil penalty of between \$100 and \$500 for each offense. A single offense for the purpose of this section shall be considered the unattended outdoor tethering of one or more balloons, sky lanterns, aerial luminary lanterns, or similar devices.

SECTION V: Warning Requirement at Point of Sale or Point of Display

- A. A retailer of a balloon or other floating device shall display and maintain a conspicuous sign at the point of sale or the point of display which contains the following statement:

Due to electrical wire fires, power outages, safety of utility workers, and environmental reasons, it is illegal in [Municipality] to release balloons and other floating devices or leave outdoor unattended tethered balloons. Such activity is subject to a \$100-\$500 fine.

- B. A retailer who violates the provisions of this section shall be subject to a civil penalty of \$500 for each offense.

SECTION VI: Outreach and Education

- A. The City Manager or his/her designee shall establish an outreach and education program aimed at educating residents on reducing the use of balloons, sky lanterns, aerial luminary devices, and or similar device and increasing the use of environmentally friendly alternatives.

SECTION VII: Enforcement

- A. Any notice of violation issued pursuant to this Section shall be returnable in the City’s municipal court, which shall have the power to impose penalties as provided herein.
- B. The City Manager shall designate appropriate departments and/or staff to enforce this Section, including but not limited to the Police Department, Public Works Department, and/or Code Enforcement Department.

SECTION VIII: Severability

- A. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of the remaining sections, subsection, sentences, clauses and phrases of this law, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the validity of any part thereof.

SECTION IX: Repealer

- A. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION X: EFFECTIVE DATE:

- A. This ordinance shall take effect 30 days after final adoption and publication.