

Blue Hill Unencapsulated Polystyrene Ordinance for Blue Hill Maine

SECTION 1. PURPOSE

The intent of this Ordinance, which may be referred to as the “Blue Hill Unencapsulated Polystyrene Ordinance,” is to eliminate the use of Unencapsulated Polystyrene in dock systems, floats, buoys, mooring systems and flotation devices on Blue Hill's Water Bodies.

The Inhabitants of Blue Hill make the following findings:

Polystyrene is a petroleum product, commonly known as 'Styrofoam', is often used for flotation because of its buoyancy. It is neither readily recyclable nor biodegradable and takes hundreds of years to degrade in the environment. When exposed to the elements, it fragments into small, non- biodegradable pieces that may be ingested by marine life, wild and domestic water birds, and other wildlife.

Polystyrene is a known carcinogen. When ingested, Polystyrene fragments may block the digestive system of birds, mammals, and aquatic species, killing them through starvation or toxicity. Birds, aquatic and land mammals, other organisms, and nesting rodents hasten the fragmentation of Polystyrene by forming nests in, under, or on top of the material when seasonally stored on land. Mechanical trauma such as the dragging of floats over land may also cause the Polystyrene to break apart. The deterioration of larger Polystyrene floats into smaller pieces creates a pollution line along shorelines, intertidal land and other places where buoyant debris collects, which is a form of pollution and increases the chances of ingestion by water dependent mammals, birds, aquatic species, and humans. Such pollution must be picked up and removed at the expense of the public and private citizens.

To prevent such degradation, pollution, and hazard to water dependent mammals, birds, aquatic species, and humans, Polystyrene floats may be encapsulated in a hard Polyethylene shell, which prevents the deterioration and spread of smaller sections of Polystyrene floats. The general health and welfare of all living beings requires that such use of Unencapsulated Polystyrene be banned from use in Blue Hill's Water Bodies.

This Ordinance is adopted in relation to Home Rule Authority and plenary police powers as found in 30-A M.R.S. 3001, the Municipal Police Powers relating to the Public Trust in Intertidal Lands as found in 12 M.R.S. 573(3), 38 M.R.S. 1 et seq., and 12 M.R.S 13072.

SECTION 2. DEFINITIONS

Polystyrene. A thermoplastic polymer or copolymer comprised of at least 80 percent styrene or para-methyl styrene by weight.

Unencapsulated Polystyrene. Polystyrene that is not completely encased within a polyethylene shell or within other comparable materials warranted by the manufacturer for at least eight (8) years or more against cracking, peeling, sloughing, and deterioration from ultraviolet exposure and physical trauma.

Water Body Any inland lake, pond, river, stream, marsh and their tributaries, coastal tidal areas, and ocean.

SECTION 3. USE OF POLYSTYRENE PROHIBITIONS

The use of Unencapsulated Polystyrene as a flotation device is prohibited in any Water Body within the jurisdiction of the Town of Blue Hill, including but not limited to, any dock system, float, mooring system, flotation device, or buoy. Unencapsulated Polystyrene is hereby prohibited for use in the repair of any existing dock system, mooring system, float or buoy placed or to be placed in any Water Body within the jurisdiction of the Town of Blue Hill.

SECTION 4. NUISANCE

In addition to the prohibition as described in section 3 above and the remedies available to enforcement thereof, it is hereby declared that the use of Unencapsulated Polystyrene as a flotation device in any Water Body within the jurisdiction of the Town of Blue Hill, including but not limited to any dock system, float, mooring system, buoy, or flotation device is a nuisance and public health hazard, and may be prosecuted as provided in the Maine Revised Statutes.

SECTION 5. AMORTIZATION OF POLYSTYRENE USE

Upon adoption of this Ordinance, which became effective at the annual Town Meeting on April 20, 2021, all use of Unencapsulated Polystyrene as a flotation device in any Water Body within the jurisdiction of the Town of Blue Hill shall be prohibited. Therefore, the use of all existing Unencapsulated Polystyrene flotation devices in actual use as of the effective date of adoption of this Ordinance shall be legally non-conforming. It is hereby declared that all such Unencapsulated Polystyrene flotation devices shall be illegal on the tenth (10th) anniversary after the effective date of this Ordinance and shall thereafter be subject to enforcement and removal as authorized herein. The Town of Blue Hill finds this ten (10) year amortization in exercise of the local police power to be a reasonable regulatory means to address the public hazards to be corrected hereby.

SECTION 6 ENFORCEMENT

Any violation of the prohibited acts or uses described herein shall be a civil violation as defined in 17-A M.R.S. § 4-B and shall be prosecuted under Maine Rule of Civil Procedure 80H by the Blue Hill Harbor Master, and/or the Blue Hill Code Enforcement Officer, and/or the Blue Hill Shellfish Warden. The violator shall be subject to penalties of \$100 for the first violation. Failure to remediate the violation within 30 days after receipt of a written Notice of Violation shall result in a fine of \$25 per day for each additional day that the violation continues. In addition to the financial penalties so provided, the Town may seek temporary and permanent injunctive relief to enforce the terms of this Ordinance. Each violator found by the Court to have violated this Ordinance shall pay the Town's reasonable attorney's fees and costs incurred in enforcing this Ordinance.