



**MARYLAND DEPARTMENT OF THE ENVIRONMENT
LAND AND MATERIALS ADMINISTRATION**

**MASS BALLOON RELEASE ENFORCEMENT AUTHORITY
DELEGATION AGREEMENT**

WHEREAS during the 2021 Legislative Session House Bill 391 (2021 Md. Laws, Ch. 610) was passed which created a new law, § 9-2301 of the Environment Article, Annotated Code of Maryland (“Environment Article”). This law prohibits a person from (1) knowingly and intentionally releasing a balloon to the atmosphere or (2) organizing or participating in the release of balloons and has provisions for enforcement as described below (the “Prohibition on Balloon Release”). The Prohibition on Balloon Release became effective October 1, 2021. The legislation can be viewed online at:

http://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_610_hb0391E.pdf).

WHEREAS the term "Mass Balloon Release" means an event where a person or persons knowingly and intentionally release, or cause to be released, 10 or more balloons into the atmosphere. Mass balloon releases were commonly done in the past for celebratory or commemorative purposes and are proven to have detrimental effects on wildlife and the environment by causing the death of birds and marine life and creating litter.

WHEREAS the term “Person” means an individual at least 13 years old, a corporation, a partnership, an association, a nonprofit entity, the state, or any unit or political subdivision of the State.

WHEREAS the Maryland Department of the Environment (the “MDE”) is charged with enforcing the Prohibition on Balloon Release, but the statute also provides for local governments to be delegated to enforce the statute.

WHEREAS a local jurisdiction delegated this authority agrees to follow the standards set forth in items I (Exemptions), II (Notification and Complaint Investigation Procedures), and III (Enforcement and Penalties) below to enforce the Prohibition on Balloon Release. A local jurisdiction delegated with the authority to enforce the Prohibition on Balloon Release may enforce or enact a local ordinance or other law that is more restrictive except regarding penalties, which are limited to the maximum allowed by state law. However, local jurisdictions with express power to enact local ordinances that provide for criminal and civil penalties may enact similar penalty provisions which can both exceed the state penalties and be enforced concurrently.

WHEREAS the degree to which the delegated jurisdiction effectively implements these standards shall be considered by the MDE prior to granting a continuance of or revoking this delegation of authority to enforce the Prohibition on Balloon Release.

WHEREAS _____ County seeks to assist the MDE in the protection of wildlife and the environment by assuming delegation of the authority to enforce the Prohibition on Balloon Release, and agrees to abide by the following standards:

I. Exemptions. The following balloon releases are exempt from the Prohibition on Balloon Release, and are the only allowed exemptions under this Agreement:

(A) A balloon that is released for scientific or meteorological purposes:

- (1) By or on behalf of an agency of the State or the United States;
- (2) In accordance with a contract with the State, the United States, or any other State; or
- (3) By an institution of higher education conducting research;

(B) A balloon that is:

- (1) Attached to a radio tracking device, and
- (2) Released by a person who holds an amateur operator license issued by the Federal Communications Commission (FCC);

(C) A hot air balloon that is recovered after launch; or

(D) The negligent or unintentional release of a balloon.

II. Notification and Complaint Investigation Procedures.

A. Notification Procedures – The delegated jurisdiction shall take the following action within the first year of the delegation:

1. Provide notification of statutory requirements to the operators of all public parks, celebratory venues such as popular sites for weddings or memorial gatherings, and similar locations within their jurisdiction. MDE’s fact sheet regarding mass balloon releases or a similar document that accurately describes the requirements of the statute, but may also include information on a similar county ordinance, shall be distributed to these locations where appropriate, e.g., where the fact sheet can be posted or made available to the public without risk of it being exposed to the elements or becoming litter.
2. Provide notification of the requirements of the statute to the operators of all retail balloon distributors within their jurisdiction. This notification can be performed in person, or by first-class mail or electronic mail.
3. Retain records of notifications, including the venue or operator identity, location, and date of notification.

B. Complaints – The delegated jurisdiction agrees to accept and investigate complaints from the public or any interested party and apply enforcement procedures when violations are confirmed, in accordance with the following procedures.

1. Any complaint relating to a balloon release received by the delegated jurisdiction or referred by MDE, shall be investigated within three (3) working days and the complainant shall be notified of any action taken within seven (7) working days after receipt of the complaint.

2. If the complaint is received prior to the occurrence of a planned balloon release, the delegated jurisdiction shall take steps to prevent the release through notification of the responsible party or parties about the requirements of the statute.
3. If a violation does occur and a responsible party can be identified, an enforcement action may be initiated within thirty (30) days of the violation.
4. The delegated jurisdiction shall retain records of the complaint details, including the venue and responsible party identity, location, date of the violation, whether the complaint was verified to have occurred, and any action resulting from the investigation.

III. Enforcement and Penalties.

- A. The definitions, terms, and provisions of § 9-2301 of the Environment Article, as amended, are incorporated into this Agreement by reference.
- B. Any person who violates any provision of § 9-2301 of the Environment Article is subject to the penalties described in Section III.D. of this Agreement below.
- C. Violations subject to a penalty action under this Agreement are:
 1. A person may not knowingly and intentionally release or cause to be released, or organize the release of a balloon into the atmosphere; and
 2. A person may not organize or participate in a mass balloon release as defined in the statute.
- D. Penalties:
 1. A person who violates subsection (c)(1) of the statute as described in Paragraph III.C.(1) of this Agreement shall perform six (6) hours of community service acceptable to the delegated jurisdiction or watch an educational video on environmental damage caused by human pollution recommended by MDE, or both.
 2. A person who violates subsection (c)(2) of the statute as described in Paragraph III.C.(2) of this Agreement is subject to a civil penalty not exceeding \$100 per violation.
 3. Each act of releasing, or organizing the release of, a balloon or group of balloons constitutes a separate violation.
- E. The delegated jurisdiction shall file a report with MDE's Solid Waste Program regarding its activities under this delegation on an annual basis, containing the required information for each calendar year by January 31 of the following year. The report shall contain the following information:
 1. A description of each complaint concerning a mass balloon release received by the jurisdiction during the reporting year;

- 2. The details of any investigation undertaken regarding the complaint;
 - 3. The nature of any violation(s) documented by the investigation;
 - 4. Any enforcement action taken regarding the violation(s); and
 - 5. The resolution of the enforcement action.
- F. Communications and reports regarding this Agreement can be submitted to:

Solid Waste Program
 Maryland Department of the Environment
 1800 Washington Blvd., Suite 605
 Baltimore, MD 21230-1719
 (410) 537-3315

Submissions can be made by electronic media (e.g., email); contact the Solid Waste Program at ed.dexter@maryland.gov.

- G. The parties agree that this delegation of authority is effective as of the date of execution by both parties and is valid for five (5) years unless extended in writing by agreement between the parties or suspended or revoked by MDE for violation of the terms of this Agreement.

IV. Signatures. The parties identified below agree to the terms and conditions of this Mass Balloon Release Enforcement Authority Delegation Agreement as described herein:

For _____ County:

Name and Title: _____

Signature

Date

For the Maryland Department of the Environment:

Name and Title: _____, Director, Land and Materials Administration

Signature
Approved for legal sufficiency:

Date

Assistant Attorney General