

# REGULATIONS PURSUANT TO THE EASTHAM WETLANDS BYLAW

Adopted December 9, 2014

## EASTHAM FERTILIZER, NITROGEN AND PHOSPHOROUS CONTROL REGULATION

### 1.0 Purpose

A town regulation to preserve and protect the environment by regulating the outdoor application of nitrogen and phosphorous in order to reduce the overall amount of excess nitrogen and phosphorous entering the town's Resource Areas as defined in the Wetland Protection Act (Ch. 131, § 40) and the Eastham Wetlands Bylaw (Article 34, 1980). Reducing excess nitrogen and phosphorous helps to protect and improve water quality of Eastham's valuable surface waters, both salt and fresh.

### 2.0 Applicability

This regulation applies to any application of fertilizer to turf or lawns located within the Resource Areas or Buffer Zones identified in Section 2 of the Eastham Wetlands Bylaw.

### 3.0 Definitions

"Compost" means the biologically stable humus-like material derived from composting, or the aerobic, thermophilic decomposition of, organic matter, which is used as a fertility source for turf.

"Fertilizer" means a substance that enriches the soil with elements essential for plant growth, such as nitrogen and phosphorus or other substances. The term Fertilizer does not include compost, dolomite, limestone, or lime.

"New lawns" or "New turf" are planting activities that require prior approval from the Eastham Conservation Commission pursuant to the Eastham Wetlands Bylaw and this regulation.

"Turf" means grass-covered soil held together by the roots of the grass, also known as "sod" or "lawn."

### 4.0 Exemptions/ Exceptions

This regulation applies to applications of fertilizer to turf and lawns. The regulation exempts agriculture, gardens, trees, shrubs. There is a limited exception for composting, subject to the applicable provisions of Section 5.0, below.

### 5.0 Performance Standard

5.1. The application of fertilizer to lawns or turf is prohibited within the Resource Area or Buffer Zone as defined in the Eastham Wetland Bylaw, except as provided below.

5.2. The use of fertilizer for lawn maintenance purposes is not permitted, including to lawn or turf that existed at the effective date of this regulation.

5.3. New lawns or new turf may be approved by the Eastham Conservation Commission subject to the following:

5.3.1. So that new turf or new lawn can properly be established, but not to exceed one growing season, the nitrogen content of fertilizer approved for this purpose shall not exceed of 1.0 pound of actual nitrogen per thousand square feet per application, shall not exceed at the annual rate per 12 month period 3.2 pounds of actual nitrogen per thousand square feet, and shall contain at least 20% slow-release nitrogen. Single applications may be done at intervals of no less than four weeks until the annual maximum is reached.

5.3.2. An appropriate seed mix shall be used, such as a 'conservation'-type mix, that has low nutrient and water needs.

5.3.3. Fertilizer containing Phosphorus may be used to establish a new lawn/ turf or to re-establish or repair a lawn after substantial damage or land disturbance, in an effort to prevent incremental water runoff.

5.3.4. Fertilizer shall not be applied during or immediately prior to heavy rainfall, such as but not limited to thunderstorms, hurricanes, or northeastern storms, or when the soil is saturated due to intense or extended rainfall, or to impervious areas or compacted soil/ lawn/ turf.

5.3.5. Neither fertilizer nor compost shall be applied between November 12 and the following April 14.

5.3.6. Fertilizer shall not be applied beyond the Buffer Zone directly to the abutting Resource Area.

5.3.7. IRRIGATION. Above ground temporary irrigation is allowed during the first 2-3 growing seasons to allow for plant establishment and shall be immediately removed no later than after the third growing season. Underground irrigation systems, including permanent underground irrigation systems, are prohibited.

## **6.0 Enforcement**

6.1. The enforcement authority shall be the Conservation Commission and the Conservation Agent.

6.2. The enforcement authority may enforce this regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the enforcement authority shall not preclude enforcement through any other lawful means.

### 7.0 Amendments

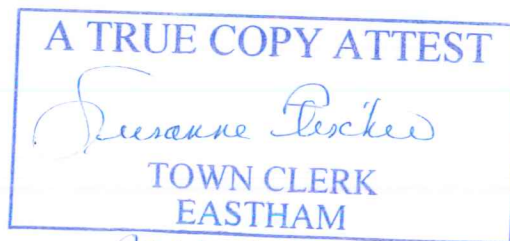
Amendments to this regulation may be made in this same manner it was adopted, including according to the relevant provisions in Sections 10 & 11 of the Cape Cod Commission Act, Ch. 716 of the Acts of 1989.

### 8.0 Severability Clause

Should any section, part or provision of this Regulation be deemed invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining terms of this Regulation as a whole or any part thereof, other than the section, part or provision held invalid, which shall remain in full force and effect.

### 9.0 Effective Date

The effective date of this regulation shall be the date it is duly adopted by the Eastham Conservation Commission, so long as it is determined by the Cape Cod Commission as consistent with the Fertilizer Management District of Critical Planning Concern Designation, Barnstable County Ordinance 13-07.



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