

SALE AND APPLICATION OF LAWN FERTILIZER

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1 Purpose and intent.

The purpose of this article is to regulate the use and sale of lawn fertilizer containing nutrients and contaminants, including phosphorous, to all land located within the boundaries of the Commonwealth of Massachusetts and to land owned by the Commonwealth, so as to prevent such from entering any portion of the Commonwealth's rivers, ponds, watersheds, lakes, oceans and any tributary thereof in order to reduce non-point source pollution and to improve water quality as envisioned under the federal Clean Water Act.

2 Applicability.

This article applies to all land located within the boundaries of the Commonwealth of Massachusetts and to any land owned by the Commonwealth. The ordinance codified in this article shall take effect at the end of the third month following the signing of this legislation.

3 Definitions.

"Fertilizer" means any substance containing a recognized plant nutrient used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth.

"Lawn fertilizer" means any fertilizer whether distributed by a property owner, renter, commercial entity or by the Commonwealth of Massachusetts, distributed for nonagricultural use such as lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for gardening, tree, shrub and indoor plant application.

"Turf" means non-crop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial property, private golf courses, and property owned by federal, state, or local units of government, including parks, recreation areas, and public golf courses. Turf does not mean pasture, hay, or turf grown on turf farms.

4 Use and application of lawn fertilizer.

A. Except as provided in Section 5 below, no person shall apply any lawn fertilizer that is labeled as containing more than zero percent phosphorous or other compound containing phosphorous, such as phosphate.

B. No person shall apply lawn fertilizer when the ground is frozen.

C. No person shall cause fertilizer to be applied to or run onto any impervious surface including parking lots, roadways, and sidewalks. If such application, occurs the fertilizer must be immediately contained and collected and either legally applied to turf or placed in an appropriate container.

5 Exemptions to use and application of lawn fertilizer.

A. The prohibition against the use of fertilizer under Section 4 shall not apply to the following:

1. Newly established turf or lawn areas during their first growing season.

2. Turf or lawn areas where soil tests performed within the past three years confirm that the phosphorous levels are deficient based upon the standards established by the Massachusetts Department of Agriculture. The fertilizer application shall not contain an amount of phosphorous exceeding the amount and rate of application recommended based on the soil test.

3. Gardens, including vegetable and flower, trees, and shrubs, and indoor applications, including green houses.

4. Yard waste compost or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

B. The application of fertilizer under subsection A above must meet the standards established by the Massachusetts Department of Environmental Protection.

6 Display for sale of fertilizer containing phosphorous.

A. Effective June 1, 2010 no person shall display for sale any lawn fertilizer that is labeled as containing more than zero percent phosphorous, or other compound containing phosphorous, such as phosphate. Lawn fertilizer that contains more than zero percent phosphorus may be stored off the sales floor and may be sold upon presentation of a deficiency of phosphorous statement. The business shall advise customers by signs that fertilizer containing phosphorous is available.

B. Effective 90 days after the legislation is enacted, a sign referencing the regulations set forth in this chapter and the effects of phosphorous on the Commonwealth's rivers, ponds, lakes, oceans and its tributaries thereof must be prominently displayed where fertilizers are sold. A business shall be deemed to have complied with this requirement by displaying a sign consistent with a sample sign available from the Massachusetts Department of Agriculture.

7 Enforcement and penalties for improperly applying lawn fertilizer or displaying for sale.

A. If any turf is deemed to need phosphorous as indicated by a tissue, soil, or other test by a laboratory (or any similar method approved by the Department of Agriculture and such test has been performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth may, upon paying a fee as determined by the Department of Agriculture, apply for a waiver to be issued by the Board of Health or other town agency as determined by the Board of Selectmen. This waiver must be presented to a business prior to a business selling a fertilizer containing any phosphorous.

B. Violations of this chapter will be enforced by the Department of Environmental Protection or any body designated by the Legislature.

C. Any person violating this chapter is guilty of an infraction and is subject to a fine. The fine for the first offence shall be \$150 and \$300 for each subsequent offence or an amount as established by resolution of the Legislature.

8 Severability clause.

If any section, provision or portion of this chapter is ruled invalid by a court, the remainder of the chapter shall not for that reason be rendered ineffective or invalid.