

## Chapter 237

### NITROGEN CONTROL

**[HISTORY: Adopted by the Town of Falmouth Annual Fall Town Meeting 11-13-2012, Art. 7, approved 7-12-2013. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Watershed protection — See Ch. 227.

Zoning — See Ch. 240.

Wetlands protection — See Ch. 235.

Wetlands Regulations — See Ch. FWR.

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#### § 237-1. Purpose.

A Town bylaw to conserve resources and protect our environment by regulating the outdoor application of nitrogen in order to reduce the overall amount of excess nitrogen entering the Town's Resource Areas as defined in the Wetlands Protection Bylaw (Chapter 235; Section 2) and regulations. Reducing excess nitrogen helps protect and improve the water quality of Falmouth's valuable estuaries.

#### § 237-2. Applicability.

This bylaw shall apply to and regulate any and all applications of nitrogen through fertilizer within the Town of Falmouth.

#### § 237-3. Definitions.

**AGRICULTURE** — Includes farming in all its branches, generally as the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, floricultural, viticultural or horticultural commodities, and shell fishing, including preparations and delivery to storage or to market or to carriers for transportation to market.

**FERTILIZER** — A substance that enriches the soil with elements essential for plant growth, such as nitrogen, phosphorus, potassium or other substances; fertilizer does not include those nutrients that are normally excluded from fertilizer such as chemicals that are part of dolomite, limestone, or lime.

**IMPERVIOUS SURFACE** — Means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

**NITROGEN** — Means an element essential to plant growth. For the purposes of the bylaw, nitrogen may be available as slow-release, controlled-release, timed-release, slowly available, or water insoluble nitrogen, which means nitrogen in a form that delays its availability for plant uptake and use after application and is not rapidly available to turf and other plants; and/or quick-release, water-soluble nitrogen which means nitrogen in a form that does not delay its availability for turf and other plant uptake and is rapidly available for turf and other plant uptake and use after application.

**TURF** — Means grass-covered soil held together by the roots of the grass, also known

as "sod" or "lawn."

#### **§ 237-4. Performance standards.**

All application of nitrogen shall comply with the following standards:

- A. The application of nitrogen is prohibited between October 16 and April 14 unless specifically designated by the Town Department of Natural Resources or the Board of Selectmen.
- B. No person shall cause nitrogen to apply to, or otherwise be deposited to any impervious surface including parking lot, driveway, roadway, sidewalk or ice. Any fertilizer applied, spilled, and/or deposited on any impervious surface, either intentionally or accidentally, must be immediately and completely removed and contained and either legally applied to turf or any other legal site or returned to an appropriate container.
- C. No person shall apply nitrogen directly before or during a heavy rain event.
- D. The application of nitrogen is prohibited within 100 feet of Resource Areas as defined in Falmouth's Wetlands Regulations FWR 10.02(1)(a) through (d).

#### **§ 237-5. Exemptions.**

The following activities shall be exempt from § 237-4:

- A. Application of nitrogen for agriculture and horticulture uses.
- B. Application of fertilizer to golf courses, except that any application of nitrogen on greens or fairways within Resource Areas referenced in § 237-4D shall comply with the recommendations set forth in § 237-6, and shall use 85% or higher slow-release, water-insoluble nitrogen, in organic or inorganic form.
- C. Application of nitrogen to gardens, including vegetable and flower, trees, shrubs and indoor applications including greenhouses.
- D. Application of nitrogen for the establishment of new vegetation in the first growing season, or repairing of turf in the first growing season, after substantial damage.
- E. Yard waste compost or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

#### **§ 237-6. Recommendations.**

The Town of Falmouth strongly recommends that nitrogen should be applied to turf and other plants at the lowest rate necessary. Any single application of nitrogen should not exceed 0.5 pounds of nitrogen per 1,000 square feet, and the annual aggregate total application of nitrogen should not exceed 1.0 pounds per 1,000 square feet. The application of any nitrogen should be of an organic, slow-release, water-insoluble form.

#### **§ 237-7. Enforcement authority.**

The enforcement authority shall be the Director of Natural Resources or his designees.

**§ 237-8. Severability clause.**

Should any section, part or provision of this bylaw be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of this bylaw as a whole or any part thereof, other than the section, part or provision held invalid or unconstitutional.

