Warrant for Annual Town Meeting

April 28, 2014

COUNTY OF DUKES COUNTY, SS.

TO THE CONSTABLES OF THE TOWN OF CHILMARK,
GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to warn and notify the inhabitants of the Town of Chilmark, qualified to vote in elections and town affairs, to assemble at the Chilmark Community Center in said Town of Chilmark on Monday, the twenty-eighth day of April in the year Two Thousand and Fourteen A.D. at 7:30 o'clock in the evening, there and then to act on the Articles in this Warrant, with the exception of Article One.

And to meet again in the Chilmark Community Center, in said Chilmark on Wednesday, the thirtieth day of April in the year Two Thousand and Fourteen A. D. 12 Noon, there and then to act on Article One of the Warrant by the election of Town Officers and action on Questions on the Official Ballot.

The polls for voting on the Official Ballot will be open at 12:00 PM Noon, and shall close at eight o'clock in the afternoon, 8:00 PM.

ARTICLE 1. To elect the following officers on the Official Ballot:

One Member of the Board of Selectmen	for three years
One Member of the Board of Assessors	for three years
One Member of the Board of Health	for three years
One Trustee of the Public Library	for three years
One Trustee of the Public Library	for one year
Two Members of the Finance Advisory Committee	for three years
One Member of the Finance Advisory Committee	for two years
One Member of the Cemetery Commission	for three years
One Members of the Planning Board	for five years
One Member of the Planning Board	for three years
One Fence Viewer	for three years
One Surveyor of Wood, Lumber and Bark	for three years
One Surveyor of Wood, Lumber and Bark	for two years
One Tree Warden	for one year

Questions

Question 1. Shall the Town of Chilmark be allowed to assess an additional **$122,000** in real estate and personal property taxes for the purposes of funding the operating budget of the Martha's Vineyard Regional School District for the fiscal year beginning July 1, 2014? Yes No

Question 2. Shall the Town of Chilmark be allowed to assess an additional **$71,000** in real estate and personal property taxes for the purposes of funding the operating budget of the Up Island Regional School District for the fiscal year beginning July 1, 2014? Yes No

ARTICLE 2. To hear the reports of the Town Officers and Committees and act thereon.

ARTICLE 3. To see if the town will vote to raise such sums of money as will be necessary to defray town charges and to make the appropriations for the ensuing year, as printed under Departmental Budgets - Salaries and Expenses totals, provided that the amount set forth under the Education Budget as the Up Island Regional School District and Martha's Vineyard Regional High School (Dept. 300) shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 30th 2014 vote in the affirmative to override Proposition 2½, and that the amount set forth under the Community Preservation Committee (Dept. 179) shall be funded from the Community Preservation FY2014 Budgeted Reserve.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present
EXCEPT Martha's Vineyard Commission increase. This was NOT RECOMMENED.

ARTICLE 4. To see if the town will vote to raise and appropriate the sum of **$5,000.00** and further appropriate the sum of $5,000.00 to be received from the Chilmark Town Affairs Council, subject to receipt, which amounts are to be added to the maintenance account of the Chilmark Community Center.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 5. To see if the town will vote to raise and appropriate the sum of **$40,000.00** for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2014.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 6. To see if the town will vote to raise and appropriate the sum of **$23,256.00** to fund Chilmark's share of the Vineyard Health Care Access program and authorize the Board of Selectmen to enter into an inter-municipal agreement with the County of Dukes County to provide a Health Care Access Program.
Submitted by the Dukes County Commission
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 7. To see if the town will vote to transfer the sum of **$55,000.00** from available funds in the treasury to be placed in the General Stabilization Fund.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 8. To see if the town will vote to transfer the sum of **$30,000.00** from available funds in the treasury to be placed in the Fire Department Stabilization Fund, with the intent that it be put towards the replacement costs for fire apparatus which is over twenty-five (25) years in age.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 9. To see if the town will vote to transfer from available funds in the treasury the sum of **$12,000.000** to be placed in the Ambulance Stabilization Fund.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 10. To see if the town will vote to transfer from available funds in the treasury the sum of **$12,000.00** to fund building maintenance projects at the Police & Fire Stations, and Community Center, including the payment of costs incidental and related thereto.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 11. To see if the town will vote to transfer from available funds in the treasury the sum of

$6,000.00 to fund the purchase of a portable fire pump, including the payment of costs incidental and related thereto.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 12. To see if the town will vote to transfer from available funds in the treasury the sum of **$5,000.00** to be added to funds provided by the Chilmark Volunteer Firemen's Association for the purchase and equipping of a Utility Task Vehicle (UTV), including the payment of costs incidental and related thereto.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 13. To see if the town will vote to transfer from available funds in the treasury the sum of **$15,000.00** to fund the purchase of cashbook and permit software, and computer equipment, including the payment of costs incidental and related thereto.
Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 14. To see if the town will vote to approve the following request of the **Community Preservation Committee**:
To see if the Town will vote to reserve from the Community Preservation Fund FY 2014 estimated annual revenues up to the following amounts for community preservation projects: **$32,287** for Open Space Preservation; **$32,287** for Historic Resources Preservation; **$32,287** for Housing; and **$226,007** for the Community Preservation Budgeted Reserve.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 15. To see if the town will vote to approve the following request of the **Community Preservation Committee**:
To see if the Town will vote to appropriate from the Community Preservation Historic Resources Reserve Fund the sum of **$3,500.00** to restore approximately 35 slate gravestones from the late 1700's and 1800's in Abel's Hill Cemetery.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 16. To see if the town will vote to approve the following request of the **Community Preservation Committee**:
To see if the Town will vote to appropriate from the Historic Resources Reserve the sum of **$100,000.00** to help fund the Sheriff Meadow Foundation's restoration of the historic Mayhew-Hancock-Mitchell House on Quansoo Farm – circa 1655. A transfer of $100,000 from the Community Preservation Budgeted Reserve Fund to the Historic Resources Reserve Fund would be required to fund this appropriation.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 17. To see if the Town will vote to approve the following request of the **Community Preservation Committee**:
To see if the Town will vote to appropriate from the Historic Resources Reserve Fund the sum of **$51,854.00** as Chilmark's share to help fund the estimated $3 million project to relocate and restore the historic Gay Head Lighthouse. A transfer of $45,000 from the Community Preservation Undesignated Reserve Fund to the Historic Resources Reserve Fund would be required to fund this appropriation.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 18. To see if the Town will vote to approve the following request of the **Community**

Preservation Committee:

To see if the Town will vote to appropriate from the Community Preservation Historic Resources Reserve Fund the sum of **$5,847.00** as Chilmark's share of the estimated $55,000 project to bring the historic County Courthouse electrical wiring up to current code requirements.

NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 19. To see if the Town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to appropriate from the Community Preservation Historic Resources Reserve Fund the sum of **$31,512.00** for the MV Museum as Chilmark's share of the estimated $600,000 project to install a new slate roof, rebuild the chimneys and install the associated building support structures needed for this project. The work will be done on the Museum's historic 1895 Marine Hospital Building in Tisbury. If the property is sold within ten years (before April 28, 2024) 100 percent of the Town's CPA funds shall be returned.

NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 20. To see if the Town will vote to approve the following request of the **Community Preservation Committee:**

To see if the Town will vote to appropriate from the Community Preservation Affordable Housing Reserve Fund the sum of **$65,000.00** to the Island Housing Trust as Chilmark's share of the estimated $600,000 acquisition of six affordable apartments located at 14 Village Court, Vineyard Haven. A transfer of $5,000 from the Community Preservation Undesignated Reserve Fund to the Affordable Housing Reserve Fund would be required to fund this appropriation. In exchange for this appropriation qualified Chilmark tenants will be given "preference" for one of the six affordable apartments for applicants earning approximately 60 percent of the County Median Income.

NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 21. To see if the town will vote to raise and appropriate the sum of **$3,500.00** to fund the Police Department's FY2015 participation in the Martha's Vineyard Law Enforcement Council.

Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 22. To see if the town will vote to transfer from available funds in the treasury the sum of **$32,000.00** to purchase and equip a new police vehicle, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 3 Ayes-0 Nays-1 Abstain-3 Not Present

ARTICLE 23. To see if the town will vote to transfer from available funds in the treasury the sum of **$10,000.00** to participate in a shellfish experiment in Chilmark Great Pond with the Martha's Vineyard Shellfish Group, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 24. To see if the town will vote to transfer from available funds in the treasury the sum of **$100,000.00** to pay down the FY2015 tax rate.

Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 25. To see if the town will vote to transfer from account 01-830-9266-5700-14 (County Pest Management) the sum of **$7,064.01**and the sum of **$818.61** from account 01-141-92695700-11 (assessors FY2012 Reval) for the purpose of funding improvements to the Tabor House Road landfill cap parking area for use as an off-site parking lot for Menemsha, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 26. To see if the town will vote to transfer from available funds in the treasury the sum of **$9,567.00** to fund the Town's share of the administrative expenses of the All Island School Committee's contract for Adult and Community Education in Fiscal Year 2015.

NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 27. To see if the Town will authorize the Board of Selectmen to submit a Home Rule Petition to the Massachusetts General Court requesting either an amendment to the Pesticide Control Act, Massachusetts General Laws Chapter 132B, or special legislation, authorizing the Town to enforce Section 12.6.H(1) of the Chilmark Zoning By-laws without regard to the Pesticide Control Act, which zoning provision prohibits the use of chemical fertilizers, herbicides, fungicides, pesticides, chemical septic system cleaners, and such other substances that may be determined by the Board of Health in the Squibnocket Pond Overlay District, in essentially the following form:

An act relative to the Squibnocket Pond Overlay District in the town of Chilmark.
SECTION 1. Notwithstanding chapter 132B of the General Laws or any other general or special law to the contrary, the town of Chilmark may prohibit, in the Squibnocket Pond Overlay District as defined by the town of Chilmark, the use of chemical fertilizers, herbicides, fungicides, pesticides, chemical septic system cleaners and such other substances as may be determined by the town of Chilmark board of health.
SECTION 2. The adoption of section 12.6(H)(1) of the town of Chilmark zoning-by laws by the town of Chilmark is hereby validated, ratified and confirmed.
SECTION 3. This act shall take effect upon its passage.

and that the General Court may, with the approval of the Board of Selectmen, make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage.

NO ACTION taken by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

ARTICLE 28. To see if the Town will vote in favor of the Board of Selectmen proceeding with developing a plan involving Squibnocket Beach, including: improvements to and relocation of the access road; the new construction of a raised roadway; the addition of approximately 1000 feet of beach to be added to the existing beach; the relocation and expansion of the existing parking area; and the construction of improvements to allow access for boating in Squibnocket Pond. The proposed project will involve the negotiating of a new or amended lease for the existing beach which will expand the length of its term by approximately 64 years, and will provide for a 99 year lease of approximately 10.5 acres of land to be used for the expanded beach, parking area, and boat water access. This article is to assess the Town's interest in pursuing this project. Should the Town vote in favor of pursuing this project, the Selectmen will hold a future Special Town

Meeting in October 2014 to vote on the terms of any lease, to appropriate funding, including from Community Preservation Act funds, and to consider any necessary zoning by-law or other by-law changes needed to allow the project to proceed.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 29. To see if the town will vote pursuant to Section 7 of Chapter 42 of the Massachusetts General Laws to change the town boundary line between Chilmark and Aquinnah between Menemsha Pond and Menemsha Bight, plan on file in the Town Clerk's Office, or take any other action relative thereto.
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

ARTICLE 30. To see if the Town will vote to adopt the **Fertilizer Management District of Critical Planning Concern Regulations** as approved by the Martha's Vineyard Commission:

SECTION 1. FINDINGS

1.1 This Section details the public health and ecological foundations for the regulation of the use of fertilizer on turf in Chilmark.

1.2 In appropriate concentrations, nitrogen in the form of oxides plays a critical role in the nitrogen cycle and is essential to life. In excess, these forms of nitrogen represent an environmental pollutant that has the potential to harm our water resources, and ultimately damage human health. Excessive amounts of nitrogen, as well as phosphorus, contribute to undesirable algal and aquatic plant growth, and degrade the water used for drinking and shellfishing as well as swimming and boating.

1.3 Algal blooms cause our ponds and harbors to become increasingly anaerobic, with seabeds robbed of oxygen and devoid of aquatic life, and cloudy water columns filled with dense algal and aquatic plant growth. The algal bloom brings with it human health risks. Depending on the type, quantity and route of exposure, symptoms from algae blooms vary from skin and eye irritations to gastrointestinal and asthma-like symptoms, with children and pets being particularly susceptible.

1.4 Chilmark's groundwater is also at risk from nitrogen infiltration. Rising nitrogen levels in our Island ponds are caused in major part by rising nitrogen content in our groundwater. The groundwater/aquifer underlying Chilmark is the source of its existing and future drinking water supply and should be preserved and protected from excess nitrate infiltration. Ingested nitrates are converted by the body into nitrites, which are capable of converting hemoglobin into an oxidized form that does not bind tightly to blood oxygen. Infants, young children, pregnant women and some people with compromised immune systems who drink water in excess of established Safe Drinking Water Standards are particularly vulnerable and may become seriously ill if untreated. The Island's municipal and well water supply is an outstanding asset, one that is safe now and should be protected going forward.

1.5 The Island of Martha's Vineyard in its entirety has significant amounts of glacially deposited coarse, sandy soils that are subject to rapid water infiltration, percolation, and leaching of nutrients into its groundwater that flow ultimately into the Island's harbors, embayments, salt ponds and coastal resources, including the water and wetland resources of Chilmark. Additionally, soils associated with terminal moraine and glacial till contribute to rapid runoff into streams feeding coastal water bodies. These unique geologic,

topographic and hydrographic characteristics require innovative soil management practices. The adoption of specific turf and soil fertilization requirements across the Island, including Chilmark, is necessary to protect the water and wetland resources of the Island, including Chilmark's.

1.6 The six towns comprising Martha's Vineyard have engaged the Massachusetts Estuaries Project ('Estuaries Project') to undertake analyses of many of the harbors, embayments, salt ponds and coastal resources in the Island towns and to prepare reports detailing the nutrient loading from multiple sources, including fertilizers. The Estuaries Project considers fertilizers a locally controllable source of water degradation. This is very significant as it is anticipated that the State will require all Massachusetts towns to bring the nutrient levels of their coastal ponds, harbors and other water resources to within recognized acceptable water quality standards established in the federal Clean Water Act.

1.7 As of the date of the enactment of this Regulation, Estuaries Project reports have been completed for Edgartown Great Pond, Farm Pond, Lagoon Pond, Sengekontacket Pond and Tisbury Great Pond. In addition, the Massachusetts Department of Environmental Protection has established the maximum amount of a pollutant that four of these ponds can receive and still safely meet water quality standards (known as "Total Maximum Daily Loads" or "TMDLs"). (TMDLs for Tisbury Great Pond are under consideration as of the date of the enactment of this Regulation.) Similar studies are currently underway for Cape Pogue, Chilmark Pond, Katama Bay, Menemsha Pond, Oak Bluffs Harbor, Oyster Pond, Pocha Pond, Squibnocket Pond and Tashmoo Pond. In due course, TMDLs will be established for all of these participating water bodies.

1.8 Of the fourteen coastal ponds and harbors participating in the Estuaries Project, eight have watersheds that encompass portions of more than one town, suggesting that an Island-wide, coordinated approach is necessary for effective management of water quality in these ponds.

1.9 The responsible application of fertilizers rests not only with property owners, but also with professional landscapers whose work takes them across the Island without regard to town or watershed boundaries. Coordinated regulation of fertilizers across the Island will facilitate the educational process for landscapers and will avoid confusion that might arise if fertilizer regulations were materially different from town to town.

1.10 The Chilmark Board of Health, recognizing that excessive use of fertilizers is part of the overall problem of nutrient pollution, promulgates this Regulation regarding the use of fertilizer on turf. As a parallel effort, the BMPs Working Group has assisted the Island town Boards of Health in drafting the *Best Management Practices for Landscape Fertilizer Use on Martha's Vineyard*, which is based on the *UMass Amherst Extensions' Best Management Practices for Soil and Nutrient Management in Turf Systems*, both of which from time to time may undergo changes in response to scientific research.

1.11 The practices and standards set out herein are deemed necessary to protect the public health, including the maintenance of drinking water quality and the preservation of our water and wetland resources. They also represent an early step in achieving compliance with applicable water quality standards. This Regulation is intended to allow our Island's waters to be both sustainable and sustaining, while affording reasonable use of fertilizers for the enhancement of lawn quality.

1.12 It is anticipated that compliance with this Regulation will be achieved primarily as a community responsibility and as consequence of the adoption of a common standard of turf

care in respect of both the sale and application of Fertilizer. This regulation provides for educational initiatives to enable this process to occur. To supplement these community-based activities, this Regulation also provides for an enforcement process applicable to those who apply Fertilizer in violation of the standards set out in this Regulation.

SECTION 2. PURPOSE

This Regulation provides for a reduction of nitrogen and phosphorus going into Chilmark's Water Resources by means of an organized system of education, licensure, regulation of practice, and enforcement. The Regulation is intended to contribute to Chilmark's ability to protect, maintain, and ultimately improve the water quality in all its Water Resources and assist in achieving compliance with any applicable water quality standards relating to controllable nitrogen and phosphorus.

SECTION 3. AUTHORITY

This Regulation is adopted by the Chilmark Board of Health as authorized by Massachusetts General Laws, Chapter 111, Section 31 and is further authorized pursuant to the Fertilizer Management District of Critical Planning Concern designation, [detail authority], and by section 9 of Chapter 262 of the Acts of 2012, as amended.

SECTION 4. DEFINITIONS

For the purposes of this Regulation, the following words shall have the following meanings unless the context clearly indicates a different meaning:

"Agriculture" means farming in all of its branches and the cultivation and tillage of the Soil, the production, cultivation, growing, and harvesting of any agricultural, floricultural or horticultural commodities. For the purposes of this Regulation, agriculture means production for commercial sale.

"Application Fee" means a fee in the amount of $100.

"Best Management Practices for Landscape Fertilizer Use on Martha's Vineyard" or "Martha's Vineyard BMPs", means a sequence of activities designed to minimize Fertilizer use while also promoting healthy vegetative growth, as prepared by a working group of Island landscape professionals, golf course superintendents, Health Agents, landscape retailers, and conservationists.

"Board of Health" means the Chilmark Board of Health whose members are elected by the voters of Chilmark to oversee public and environmental practices through the actions of its Health Department.

"Buffer Zone" means the area abutting a Resource Area within which no alteration (as that term is defined in Commonwealth's Wetland Protection Act or the Chilmark Wetland Protect Bylaws and Regulations) is permitted without an Order of Conditions or a Negative Determination from the Chilmark Conservation Commission.

"Compost Tea" means a liquid infusion of Organic Compost but, for the purposes of this Regulation, is not considered a Slow Release Fertilizer.

"Fertilizer" means a substance that enriches the Turf or Soil with elements essential for

plant growth, such as nitrogen, phosphorus, or other substances. Fertilizer also includes 'combination products', sometimes referred to as 'weed and feed', which contain Fertilizer in combination with pre- or post-emergence herbicides, insecticides, other pesticides or plant growth regulators. Fertilizer does not include those substances that are normally excluded from Fertilizer such as dolomite, limestone, or lime.

"Golf Course" means the managed (i.e. mowed and fertilized) Turf at each of Chappaquiddick Golf Club, Farm Neck Golf Club, Edgartown Golf Club, Mink Meadows Golf Club, and Vineyard Golf Club.

"Health Agent" means the individual who has direct oversight of the daily activities of the Board of Health.

"Horticulture" is a general term meaning plant science and plant products. For the purposes of this Regulation, horticulture means the raising of flowers, fruits, vegetables, berries, herbs, nuts, and other similar products for commercial sale.

"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, but does not include compacted areas on athletic fields, such as baseball infields, and intensely trafficked Turf.

"Landscape Professional" means a person, either as a sole proprietor or as an employee of a company or a municipality, who in exchange for money, goods, services, or other consideration applies Fertilizer to Turf. A Landscape Professional includes Turf management staff at a Golf Course.

"License" means that documentation issued by Chilmark authorizing the individual or commercial entity holder to apply Fertilizer in Chilmark.

"Licensee" means a Landscape Professional who has a valid License.

"Liquid Fertilizer" means a form of Fertilizer which typically is sprayed directly onto a plant.

"Martha's Vineyard Lawn Fertilizer Working Group" means the group of individuals from the six Island towns, including landscape professionals, golf course superintendents, Conservation Commissioners, Selectmen, Board of Health Commissioners and Health Agents, and Martha's Vineyard Commission members, who met and consulted with members of the public representing these and other constituencies to draft this Regulation.

"Organic Compost" is a Slow Release form of Fertilizer comprised of the biologically stable, non-pelletized, humus-like material derived from composting or the aerobic, thermophilic decomposition of organic matter.

"Participating Town" means an Island town that has voted to adopt regulations governing the use of Fertilizer that are substantially similar to this Regulation.

"Property Owner" means the owner of record of the Turf or Soil to which Fertilizer is applied (and, for the avoidance of doubt, includes Chilmark).

"Relevant Employee" means a person engaged (as an employee, agent, contractor or otherwise) by a Landscape Professional who applies Fertilizer to Turf or Soil.

"Resource Area" means an area subject to protection under the Commonwealth's Wetland Protection Act or the Chilmark Wetland Protection By-Laws or Regulations.

"Slow Release" in relation to nitrogen, means nitrogen in a form that delays its availability for uptake and use after application, and is not rapidly available to Turf. Slow Release is also sometimes referred to as 'controlled-release', 'timed-release' or 'slowly soluble/available'. This definition expressly excludes nitrate salts and urea.

"Soil" means the upper-most layer of the earth's surface, comprised of mineral and organic matter, which can host biological communities.

"Soil Test" means a technical analysis of Soil conducted by a Soil testing laboratory that measures extractable nutrient values using a Modified Morgan soil testing procedure and making recommendations based on values as determined by the University of Massachusetts Extension Soil and Plant Tissue Testing Lab.

"Chilmark" encompasses the land and water of the Town of Chilmark on the island of Martha's Vineyard, County of Dukes County.

"Turf" means grass-covered Soil held together by the root system, and includes turf used for sports and recreational activities as well as for lawns and utility areas.

"Water Resource" includes, without limitation, groundwater, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, ponds, lakes, marine waters, canals, lagoons, embayments, estuaries and all waters defined in Massachusetts General Laws, Chapter 131, Section 40 and the Chilmark Wetland By-Laws or Regulations.

SECTION 5. TURF PERFORMANCE STANDARDS

5.1 General Turf Performance Standards

5.1.1 No person shall apply Fertilizer between November 15th and the following April 15th.

5.1.2 No person shall apply Fertilizer to Turf or Soil immediately before or during heavy rainfall when the Lawn or Soil is likely to be saturated with water, when the Turf or Soil has the characteristics of an Impervious Surface or when they are showing signs of stress due to drought, or any other time when the Fertilizer is unlikely to be taken up by the Turf root structure.

5.1.3 No person shall apply or deposit Fertilizer on any Impervious Surface or on any place or in such a manner as would allow the Fertilizer to enter into storm drains or other storm flowage receptacles and/or channels. If a person inadvertently applies or deposits Fertilizer to an Impervious Surface by spill or otherwise, or applies or deposits Fertilizer as prohibited in this section, that person must immediately remove the Fertilizer.

5.1.4 No person shall apply Fertilizer containing more than 0.5 pounds of nitrogen per 1000 square feet of Turf *per application,* provided, however, that a single application of Fertilizer between April 15 and June 1 and a single application of Fertilizer in September may contain up to .75 pounds of nitrogen per 1000 square feet of Turf. Cumulative applications of Fertilizer must not exceed 3.0 pounds of nitrogen per 1000 square feet of Turf per year. Fertilizer shall not be applied within 4 weeks of a prior application. For the purposes of this Regulation, Fertilizer applied by all persons to the same Turf will be

aggregated.

5.1.5 No person shall apply Fertilizer unless it contains at least 50% of its nitrogen in the Slow Release form. Compost Tea and Liquid Fertilizer are exempt from this standard, provided that no single application exceeds 0.1 pounds of nitrogen per 1000 square feet over a 4-week period.

5.1.6 No person shall apply Fertilizer that contains phosphorus, unless a Soil Test taken within the prior 3 years indicates a phosphorus deficiency of less than 14 ppm, in which case the phosphorus application shall be limited to the quantity specified in the test results. A Soil Test is not required for the application of:

(a) Organic Compost;

(b) specially labeled 'starter' Fertilizer products intended for use in establishing Turf or in repairing damaged Turf when applied in conjunction with Turf seed;

(c) Compost Tea; and

(d) pelletized organic Fertilizer whose phosphate content by weight is no greater than 25% of its nitrogen content by weight.

5.2 **Fertilizer in the Buffer Zone**

5.2.1 The Turf performance standards set out in Sections 5 (not including Section 5.1.4) apply to the Buffer Zone, except as modified in this Section 5.2.

5.2.2 No Fertilizer may be applied in the 10-foot wide strip running parallel and immediately adjacent to a Resource Area. In the remainder of the Buffer Zone, no person shall apply Fertilizer containing more than 0.25 pounds of nitrogen per 1000 square feet of Turf *per application*, with cumulative applications not to exceed an annual maximum of 0.5 pounds of nitrogen per 1000 square feet of Turf, except that where there is a continuous 25-foot wide strip of Fertilizer-free, non-Turf vegetation running parallel to the Resource Area, Fertilizer may be applied to the area beyond the 25 foot strip to an annual maximum of 1.0 pound of nitrogen per 1000 square feet of Turf.

5.2.3 No person shall apply Fertilizer that contains phosphorus in the Buffer Zone, unless a Soil Test taken within the prior 3 years indicates a phosphorus deficiency of less than 14 ppm, in which case the phosphorus shall be limited to the quantity specified in the test results.

5.3 **Fertilizer on Golf Courses**

5.3.1 The performance standards set out in Section 5 (not including Section 5.1.6) apply to Fertilizer applied on Golf Courses except as modified in this Section 5.3.

5.3.2 Applications of Fertilizer to Golf Courses shall not be made between December 15 and the following April 15th.

5.3.3 Liquid Fertilizer may not be applied more often than biweekly, provided that it is applied at a rate not to exceed 0.1 pound of nitrogen per 1000 sq. ft. per application.

5.3.4 The performance standards set out in Section 5.2.2 do not apply to putting greens and tee boxes in the Buffer Zone in existence at the effective date of this Regulation.

5.4 **Exemptions**: The following activities are exempt from Section 5:

5.4.1 Application of Fertilizer to home vegetable and flower gardens, landscape ornamentals, shrubs, trees, bushes, and container plants.

5.4.2 Application of Fertilizer for Agricultural or Horticultural use.

5.5 **Precedence**: To the extent that the Commonwealth of Massachusetts or Chilmark has enacted, enacts, or issues any law, regulation, bylaw, order or permit concerning the application of Fertilizer containing phosphorus or nitrogen on Turf or Soil which is more stringent than the performance standards set in this Section 5, those more stringent standards take precedence.

SECTION 6. EDUCATION, LICENSURE AND ADMINISTRATION

6.1 Education and Assessment

6.1.1 The Board of Health shall:

(a) maintain and offer for a fee a general program of Fertilizer education for Property Owners and Landscape Professionals that is based on this Regulation and the Martha's Vineyard BMPs; and

(b) administer an assessment to determine a Professional Landscaper's or a Property Owner's proficiency with respect to this Regulation and the Martha's Vineyard BMPs following completion of the general education program.

6.1.2 The Board of Health shall make available to the public, including Property Owners, Landscape Professionals and Fertilizer retailers a summary of the Section 5 performance standards, as well as a copy of this Regulation, as amended from time to time.

6.2 Licensure

6.2.1 No Landscape Professional shall apply Fertilizer in Chilmark without a License issued by the Board of Health in accordance with this Regulation.

6.2.2 Subject to Section 6.2.3, an application for a License shall be accompanied by the Application Fee and documentation that the applicant has both completed the general program of Fertilizer education referred to in Section 6.1.1(a) and achieved proficiency as set forth in Section 6.1.1(b).

6.2.3 Upon issuance of a License to an applicant, Chilmark shall forward a "Notice of Issuance of Fertilizer License" to each other Participating Town nominated by the Applicant.

6.2.4 When Chilmark receives a "Notice of Issuance of Fertilizer License" from any Participating Town, the Board of Health shall issue and mail (or email or otherwise forward) a License to the applicant. The payment of a fee and the production of additional documentation shall not be required.

6.2.5 A License shall indicate the License number and expiration date and shall be signed by the Licensee.

6.2.6 Licenses shall be effective on issue and shall continue in effect for three calendar years, expiring on the third December 31 after being issued.

6.2.7 Licenses may be renewed on application. Applicants for renewal must provide documentation of either re-completion of the general program of Fertilizer education or proficiency, as set out in Section 6.1.1, and pay the Application Fee.

6.2.8 A Landscape Professional licensed under this Regulation shall keep his/her License in his/her possession and shall display the License when requested to do so by any Chilmark enforcement officer.

6.2.9 A Relevant Employee does not need to obtain a License, provided his/her employer maintains a ratio of not less than 1 Licensee to 8 non-Licensed Relevant Employees (the License held by the employer/owner being included for this purpose) and:

(a) the employer has provided the Relevant Employee with training sufficient to ensure that the employee fully understands this Regulation and the Martha's Vineyard BMPs;

(b) the Relevant Employee has demonstrated proficiency with respect to this Regulation and the Martha's Vineyard BMPs in accordance with an assessment tool provided by the Board of Health and administered by the employer;

(c) the employer provides supervision appropriate to ensure that the Relevant Employee complies with this Regulation; and

(d) the employer retains documentation sufficient to establish compliance with subsections (a), (b) and (c).

These requirements set out in (a) and (b) above must be complied with not less often than every three years and within 6 months after any material amendments to this Regulation for each Relevant Employee.

6.3 Services to be Performed by a Third Party: The Board of Health may appoint from time to time a third party to perform on its behalf the responsibilities and services set out above in Sections 6.1 and 6.2.

6.4 Liability

6.4.1 A Property Owner is liable for violations of this Regulation by a Landscape Professional or its Relevant Employees, including applying Fertilizer without a License, provided that the Property Owner knew or should reasonably have known that a violation would occur.

6.4.2 A Landscape Professional is liable for violations of this Regulation by its Relevant Employees.

6.4.3 Notwithstanding Sections 6.4.1 and 6.4.2, any person who applies Fertilizer in violation of this Regulation may be held liable.

6.5 Enforcement

6.5.1 The Health Agent and the Board of Health may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

6.5.2 Subject to Section 6.5.3, a person who violates any provision of this Regulation is subject to:

(a) in the case of a first violation within a consecutive 36-month period, a written warning;

(b) in the case of a second violation within a consecutive 36-month period, a fine in the amount of $50.00;

(c) in the case of three or more violations within a consecutive 36-month period, a fine in an amount of $300.00 per violation, unless the Town proceeds by criminal complaint or indictment under Section 6.5.6, in which case the maximum fine for the third and subsequent violations is provided therein; and

(d) in the case of a Licensee (or a Relevant Employee), and subject to the notice and hearing provisions of Section 6.5.4, suspension of the License (or that of his/her employer, as the case may be) for 180 consecutive days or revocation of that License.

6.5.3 A Licensed Professional who applies Fertilizer without having a valid License is subject to:

(a) in the case of a first violation within a consecutive 36-month period, a written warning;

(b) in the case of two or more violations within a consecutive 36-month period, a fine in the amount of $300.00 unless the Town proceeds by criminal complaint or indictment under Section 6.5.6, in which case the maximum fine for the second and subsequent violations is provided therein.

6.5.4 The Board of Health may suspend or revoke a License issued pursuant to this Regulation or any other applicable law. Such revocation or suspension may only take place after a hearing held by the Board of Health of which the Licensee shall be given seven (7) days written notice. Such notice shall be deemed given upon certified return receipt mailing same to the address listed on the License application.

6.5.5 The Board of Health is authorized to penalize any person who violates these regulations by issuing a ticket under the noncriminal disposition process provided for in Massachusetts General Laws Chapter 40, Section 21D, and the Town's noncriminal disposition by-law, Sections 1-2, 1-3, 1-4, 1-5 and 1-6 of the Code of the Town of Chilmark. If noncriminal disposition is elected, then any person who violates any provision of this Regulation shall be subject to the penalties provided in Sections 6.5.2 and 6.5.3, as applicable, per violation or, in the case of a continuing violation, per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If there is more than one violation, each shall constitute a separate offense.

6.5.6 A person who violates any provision of this Regulation may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law, the maximum penalty for each violation or offense shall be one thousand dollars ($1,000). Each day or portion thereof shall constitute a separate offense. If there is more than one violation, each shall constitute a separate offense.

SECTION 7. SEVERABILITY CLAUSE

If any section, part or provision of this Regulation is deemed invalid or unconstitutional by a court of competent jurisdiction, that 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 or unconstitutional.

SECTION 8. AMENDMENTS

8.1 This Regulation was developed by a broad group of stakeholders representing diverse interests and has been reviewed by soil and turf scientists and educators. Therefore, notwithstanding the requirements of G.L. c. 111, §31, no amendment to this Regulation shall be adopted until such time as the Board of Health shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the Town and County once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing. No such amendment shall be effective unless the proposed amendment has been reviewed and commented upon by soil and turf scientists and educators and it is passed by the Board of Health.

8.2 Further, since these Regulations are also under Chapter 831 of the Acts of 1977, as amended, any amendments to the Regulations shall first be approved by the Martha's Vineyard Commission, as conforming to the guidelines for the Fertilizer Management District of Critical Planning Concern.

SECTION 9. EFFECTIVE DATE

This Regulation shall take effect on January 1st 2015 and upon publication pursuant to G.L. c. 111, §31.

SECTION 10. INTERIM PROVISIONS

Landscape Professionals may apply Fertilizer without a license during the interim period between the effective date of this Regulation and the development of a licensing program by the Board of Health, provided that they comply with Section 5 of this Regulation.

Submitted by the Board of Health
NO ACTION taken by the Finance Advisory Committee - 4 Ayes-0 Nays-3 Not Present

You are hereby directed to serve this warrant by posting attested copies in three public places in said Town of Chilmark at least seven days before the time of said meeting, and to publish said warrant in one newspaper having general circulation in the Town of Chilmark during the week before said meeting.

Given under our hands this 4th day of March, A.D. 2014.

Chilmark Board of Selectmen

Warren M. Doty, Chairman William N. Rossi Jonathan E. Mayhew

I have notified the inhabitants of the Town of Chilmark qualified to vote in town affairs, by posting three (3) attested copies of this warrant in three (3) public places and by publishing said warrant in one newspaper having general circulation in said Town of Chilmark and made due return of this warrant at the time and place of said meeting. God save the Commonwealth.

Posted: March 19, 2014

By: _____

Constable Marshall E. Carroll, III