

Process to Voluntarily Eliminate
the use Glyphosate and Other Chemical Products
from Town Owned Properties.

1. Municipalities own (either fully or shared) and/or control all kinds of property in their towns, or example; Town Hall and other public building lawns, parks, cemeteries, recreational areas ball fields (passive and active), water sheds, well fields. Department of Public Works maintains beaches, conservation parcels and school properties, to name a few.
2. If a Town owns or controls a property, then the Town may be held liable for injury or harm that occurs to a person who is legally on or using that property.
3. A number of chemical products including glyphosate (one of the brand names is Roundup, that contain glyphosate as an active ingredient) that are used to control vegetative pests, “weeds, poison ivy, crab grasses etc.” *have been shown to have the capability to cause harm and illness to human, pollinators (honey bees) and animals i.e. dogs.*
4. For a number of years now the Town has actively written the Massachusetts Department of Agricultural Resources, Pesticide and Crop Division, expressing that they do not want to have utility companies spraying herbicides/pesticides on right-of-way areas, which run through the community’s water sheds and well fields. These letters opposing spraying of glyphosate and other herbicides were done as part of the review process for the Five-Year Vegetation Management Plans (VMPs) and Yearly Operational Plans (YOPs). Please write in the Spring of 2019 during the comment period, once you read the newly written YOP plan.
5. Recently Eversource Energy in response to a lawsuit between it and a Cape Cod town, questioned the irony of that Town’s own use of herbicides/pesticides on municipal property while trying to ‘regulate’ the utility’s use of the “same product(s).”
6. ***Therefore, it is the best of the Town to voluntary stop using chemical products on their properties, for the protection of citizens, children, visitors, pollinators and animals.***

7. The easiest manner and most effective ways are to do this and manage this is utilize the powers of the Board of Health to adopt a local regulation, solely regulating the Town's use on its own property - see #1 for property locations.

As MGL c.132B the Massachusetts Pesticide Control Act. "The purpose of this chapter is to conform the laws of the commonwealth to the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 92 §516, as amended, and the regulations promulgated thereunder and to establish a regulatory process in the commonwealth. *The exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides in the commonwealth shall be determined by this chapter.*" (Emphasis added)

Communities in the past have tried by the Home Rule process or local by-law attempted to regulate the use of all herbicides/pesticides in their communities, and those actions have been struck down by the Mass. AG's Municipal Law Section and further under appeal the court has also determined that local regulation is in conflict with MGL c. 132B [TOWN OF WENDELL & another vs. ATTORNEY GENERAL & others. 394 Mass. 518, January 10, 1985 - April 11, 1985

However, the decision did provide a path in its wording, "The regulation of the board of health must fall for the same reasons we have just set forth. A local board of health has authority to make reasonable health regulations. G. L. c. 111, Section 31. Such regulations, however, must be consistent with State law."

Under MGL a Board of Health does in fact have the power to enact regulations to protect the public health and safety from relative nuisances and causes of sickness. A Board of Health may act under Massachusetts General Laws Chapter 111, Section 31 providing that Boards of Health may make reasonable health regulations and under the authority granted to the Board of Health under Massachusetts General Laws Chapter 111, Section 122 to make regulations for the public health and safety relative nuisances and causes of sickness.

8. When an activity raises threats of harm to the environment or human health, precautionary measures should be taken, even if some cause and effect relationships are not yet fully established; and, It is in the best interest of public health to eliminate the use of toxic pesticides on Town owned land, ponds and waterways; to encourage the reduction and elimination of the use of toxic pesticides on private property; and to introduce and promote natural, organic cultural and management practices to prevent and, when necessary, control pest problems on Town owned land(s).
9. **Therefore, we would ask that Board of Selectmen to vote to set a policy and direction to the Board of Health and other boards under its direct control to voluntary not use herbicides/pesticides on Town owned land(s).**

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And further to send the adopted “TOWN OF MARBLEHEAD BOARD OF HEALTH ORGANIC PEST MANAGEMENT REGULATIONS” Adopted: December 7, 2005 and Effective: December 22, 2005, *with a strong affirmative request that the Board of Health adopt a similar regulation.* This is a model that has worked. Towns can use it or write as they desire.

Since you are acting as a property owner, you have a right to regulate what products, methods and actions occur on property the Town owns. Since School Departments operate somewhat autonomously the proposed Board of Health regulation would regulate school property to greater extent than 333 CMR 11.14 does today. Unfortunately, the CMR only regulates school facilities where the students are either under 6 years old or have special needs up to twenty-one years of age.

10. Board of Selectmen/board of Health will note on Page 1 of the Marblehead Board of Health Regulation the following finding; “the Board of Health finds and declares that the purposes of these Organic Pest Management Regulations are (1) to protect the public health by restricting the use of hazardous chemicals and pesticides on Town-owned land (2) to guarantee the right of the residents of the town of Marblehead the safe use of public land, (3) to encourage the reduction and elimination of the use of toxic pesticides on private property.
11. Besides the action to restrict the use of Glyphosate and other chemical products from Town owned properties through a policy, number #3 is a public outreach action as well. We encourage the Board of Selectmen to announce on their website and other forms of announcements like emails or letters, that the Board has taken this step to restrict the use of Glyphosate and other chemical products from Town owned properties. And ask the town to encourage the residents to do like-wise by sending them the new town policy as they have written.

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