



TOWN OF CHILMARK CHILMARK, MASSACHUSETTS

Board of Health

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Hours: 9am to 2pm, M-F

February 7, 2022

To: The Chilmark Select Board and Chilmark Zoning Enforcement Officer:

At its meeting on February 2, 2022, the Chilmark Board of Health discussed the use of pesticides in the Squibnocket District, in contravention of Chilmark Zoning Bylaw Section 12.6.H(1), which prohibits “(u)se of chemical fertilizers, herbicides, fungicides, pesticides, chemical septic system cleaners and such other substances as may be determined by the Board of Health.”

As you know, this specific section of Town’s bylaw was upheld by a General Court of the Commonwealth of Massachusetts ruling, which followed a unanimous Town Meeting vote on Article 27 of the Annual Town Meeting warrant of 2014, authorizing the Chilmark Select Board to go to the State for a ruling on the town’s ability to enforce Section 12.6.H(1) of the Chilmark Zoning By-laws without regard to the Pesticide Control Act. The General Court ruling firmly establishes the standing of this bylaw and the town’s legal right to enforce these restrictions.

In a letter on July 12, 2017, the Board of Health clarified its stance on certain so-called “natural” substances used as pesticides and deterrents. While all ingredients of these substances are found in nature, they nevertheless have the effect of killing both pests and benign creatures. We determined that, if said substances cause the demise of insects and/or arthropods through chemical action following their application, they fall under the bylaw regardless of the natural occurrence of all ingredients of that substance, and despite containing no synthetically-manufactured ingredients. In other words, applicability of the bylaw is not determined by whether an ingredient is synthetic or naturally occurring, it is determined by the *function and effect* of the substance on plants and/or living creatures in the outdoor environment of the District.

We are once again getting reports from the area that substances are being used on properties in the District which are in fact prohibited under the bylaw. We would therefore like to post signage explicitly referencing the bylaw at the entrance to the area. Such signs could also refer to Board of Health Regulation Section 10, which details restrictions on the use of fertilizers

for lawns in the Town of Chilmark. The regulation of turf fertilizer was approved by Town vote at its Annual meeting in April 2014.

We understand that such signs are themselves subject to zoning requirements, and look forward to working with you on this project.

Best wishes,

Katherine Carroll
Chair, Chilmark Board of Health