

Minutes of the Antrim Planning Board Meeting July 17, 1997

Present: Chairman Edwin Rowehl; Hugh Giffin; David Essex; Michael Oldershaw and Marion Noble.

Chairman Rowehl called the meeting to order at 7:30 P.M. and addressed the subject of Sludge Regulation. A method of control recommended by the Office of State Planning is for the Selectmen to enact an ordinance giving the authority for enforcement to Health Officer. After some discussion during which the Board referred to the State Regulations. Mike Oldershaw suggested that the material be land applied only. Michael Oldershaw made the motion to request the Board of Selectmen to adopt the following ordinance:

Pursuant to RSA 147:1 the Town of Antrim adopts the New Hampshire Code of Administrative Rules, Chapter Env - Ws 800 State of New Hampshire Septage and Sludge Management Rules by reference, except that: Sludge, if applied in the Town of Antrim, shall be land applied and shall not contain any material the source of which is commercial or industrial. Adoption of these rules is as a health ordinance, and enforcement of the rules shall be in conjunction with the New Hampshire Department of Environmental Services.

Second Hugh Giffin. The vote: David Essex, yes; Hugh Giffin, yes; Michael Oldershaw, yes; Marion Noble, yes; Edwin Rowehl, yes. So moved unanimously. The consensus of the Board was for Ed Rowehl to meet with the Selectmen and present the proposal.

Home Based Business - David Essex expressed the opinion that the present wording leaves the door open for any type of business. It was observed that the present trend which moves the office to the home will have some impact on the situation. How to accomplish the registration of businesses was also discussed. Chairman Ed Rowehl suggested that the Board review the situation and come back with some ideas for the next meeting.

The regulation of Telecommunication Towers was discussed. Chairman Rowehl referred to Law Lectures held last fall when this subject was discussed. The Dublin lawsuit was noted. Chairman Rowehl suggested that this be placed on the back burner until the other matters before the Board are handled.

Private Air Strips were discussed. It was suggested that they could be specifically excluded in residential areas. This will also be tabled for discussion at a later date.

Minutes June 19, 1997 were tabled until a quorum is present.

Hugh Giffin made the motion to adjourn. Mike Oldershaw second. Meeting adjourned at 8:00 P.M. Next meeting August 7, 1997 at 7:30 P.M.

Respectfully submitted,  
Barbara Elia, Secretary

ANTRIM PLANNING BOARD

PO BOX 517

ANTRIM, NEW HAMPSHIRE 03440

Pursuant to RSA 147:1 the Town of Antrim adopts the New Hampshire Code of Administrative Rules, Chapter Env - Ws 800 State of New Hampshire Septage and Sludge Management Rules by reference, except that: Sludge, if applied in the Town of Antrim, shall be land applied and shall not contain any material the source of which is commercial or industrial. Adoption of these rules is as a health ordinance, and enforcement of the rules shall be in conjunction with the New Hampshire Department of Environmental Services.

## ANNOTATIONS

Disease, 3  
 Enforcement, 1  
 Hazardous waste storage, 2

**1. Enforcement**

The State of New Hampshire, acting through the attorney general, has the authority to enforce this chapter; the authority to enforce the chapter is not limited to town health officials. *United States v. Ottati & Goss, Inc.*, 630 F. Supp. 1361 (D.N.H. 1985).

**2. Hazardous waste storage**

Owners and operators of drum facilities at which, as a result of inadequate maintenance, hazardous wastes were released, causing chemical contamination of the surrounding surface soil, subsoil and groundwater, were liable for the nuisance existing on the site as

a result of the hazardous wastes present. *United States v. Ottati & Goss, Inc.*, 630 F. Supp. 1361 (D.N.H. 1985).

**3. Disease**

This chapter has no application to pestilential diseases. *McIntire v. Pembroke* (1873) 53 NH 462.

**Cited**

Cited in *United States v. Ottati & Goss, Inc.*, 694 F. Supp. 977 (D.N.H. 1988).

*United States v. Ottati & Goss*, 694 F. Supp. 977 (D.N.H. 1988) modified, 900 F.2d 429 (1st Cir. 1990).

## LIBRARY REFERENCES

**New Hampshire Practice**

14 N.H.P. Local Government Law § 991.

**West Key Number**

Health and Environment ⇌ 1 et seq.

**CJS**

Health and Environment § 9 et seq.

**ALR**

Automobile wrecking yard or place of business as nuisance. 84 ALR2d 653.

Keeping horses as nuisance. 27 ALR3d 627.

Keeping of dogs as enjoyable nuisance. 11 ALR3d 1399.

Keeping of dogs, birds, or other pets by tenant as a nuisance. 18 ALR2d 880.

Keeping poultry as nuisance. 2 ALR3d 965.

Modern status of rules as to balance of convenience or social utility as affecting relief from nuisance. 40 ALR3d 601.

Operation of incinerator as nuisance. 41 ALR3d 1009.

Quarries, gravel pits, and the like as nuisances. 47 ALR3d 1009.

Scope and import of term "owner" in statutes relating to abatement of nuisance. 2 ALR 801; 95 ALR 1099.

What constitutes special injury that entitles private party to maintain action based on public nuisance—modern cases. 71 ALR4th 13.

**147:1 Local Regulations.**

I. The health officers of towns may make regulations for the prevention and removal of nuisances, and such other regulations relating to the public health as in their judgment the health and safety of the people require, which shall take effect when approved by the selectmen, recorded by the town clerk, and published in some newspaper printed in the town, or when copies thereof have been posted in 2 or more public places in the town.

II. The health officers of towns may make regulations relative to the sanitary and health conditions for issuing a license to restaurants or other food serving establishments operating within the town limits, subject to the approval of the commissioner of the department of health and human services.

(a) Notwithstanding any other law to the contrary or other licensing authority, any restaurant or other food serving establishment found to be in violation of the sanitary and health code adopted may be closed without a hearing for a 10-day period or until the violation is corrected and the sanitary condition is approved by the local health officer.

(b) If the sanitary or health violations are not corrected within the 10-day period, the local health officer may suspend the license to operate the restaurant or other food serving establishment after notice and hearing.

III. Any person wilfully violating such regulations shall be guilty of a violation. Such health officers shall forward, when issued, copies of all regulations made by them to the department of health and human services and furnish it such information concerning their work as may be requested. They shall be paid by the town a reasonable compensation for their services and all expenses incurred by them in the performance of their duty; and the selectmen are required to advance them such sums as may be necessary, of which and of all their receipts and disbursements they shall, before each annual town meeting, render an account to the selectmen, to be laid before the town.

#### HISTORY

Source. RS 119:1. CS 125:1. GS 101:1. GL 111:1. 1887, 62:4. PS 108:1. PL 140:1, 22, 23. RL 165:1. RSA 147:1. 1981, 211:2. 1983, 291:1, I. 1995, 310:181, 182, eff. Nov. 1, 1995.

Amendments—1995. Paragraph II: Substituted “commissioner of the department of health and human services” for “director, division of public health services” in the introductory paragraph.

Paragraph III: Deleted “division of public health services” following “human services” in the second sentence.

—1983. Paragraph III: Substituted “department of health and human services” for “department of health and welfare” in the second sentence.

—1981. Amended section generally.

Construction of 1995 amendment. 1995, 310:187, eff. Nov. 1, 1995, provided: “Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire.”

Severability—1995 amendment. 1995, 310, which amended this section, was subject to a severability clause. See 1995, 310:186.

Revision notes—1961. “State board of health” changed to “department of health and welfare, division of public health services” pursuant to 1961, 222:1.

#### CROSS REFERENCES

Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

State licensing of food service establishments, see RSA 143-A.

ANTRIM PLANNING BOARD  
PO BOX 517  
ANTRIM, NEW HAMPSHIRE 03440

Pursuant to RSA 147:1 the Town of Antrim adopts the New Hampshire Code of Administrative Rules, Chapter Env - Ws 800 State of New Hampshire Septage and Sludge Management Rules by reference,

except that: Sludge, <sup>if</sup> ~~land~~ applied in the Town of Antrim, shall be <sup>land applied</sup>  
shall not contain any material <sup>The</sup> ~~which~~ <sup>of which</sup> source is commercial or

industrial. Adoption of these rules is as a health ordinance, and enforcement of the rules shall be in conjunction with the New Hampshire Department of Environmental Services.