

September 5, 1962

Opinion No. 212 answered by letter.
(Northcutt)

Honorable William B. Milfelt
Prosecuting Attorney
Jefferson County
Hillsboro, Missouri



Dear Mr. Milfelt:

In answer to your request of May 7, 1962, for an opinion of this office concerning the proper placing upon the ballot of the proposition for or against county zoning and planning, I wish to refer you to an opinion of this office which was rendered to you on April 6, 1960, page 5 of which sets out the proper statutory form of the ballot. The proposition must be submitted as stated.

House Bill 465, Laws 1951, page 406, which originally provided for county planning and zoning, includes Section 16a, which was codified as Section 64.530, RSMo 1959. It is clear from both a reading of the original bill and Sections 64.510 to 64.690, RSMo 1959, that had Section 16a of the original bill and Section 64.530 not been included the county court would have had authority, without the vote of the people, to provide for either or both county planning or zoning. All the inclusion of Section 16a of House Bill 465, Laws 1951, page 406, accomplished was to leave the decision to the people of the county as to whether they wished the protection and restrictions imposed by Sections 64.510 to 64.690.

Honorable William B. Milfelt

It is the opinion of this office that even though planning does include some phases of zoning and also the converse that House Bill 465, Laws 1951, page 406, leaves the choice of which shall be carried out to the county court and the only proposition actually to be voted on is whether the county court shall have the authority to put the provisions of Sections 64.510 to 64.690 into effect.

It is true the parentheses around the phrase "or planning" in Section 64.530 seem to have little reason and to carry out what was the apparent intent of the legislature in enacting these sections, it should be read as if the parentheses were omitted.

I believe that this letter will adequately answer your questions along with re-reading of the April 6, 1960, opinion to you, a copy of which I am enclosing.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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