

COUNTY OPTION DUMPING GROUND LAW:
COUNTY COURT:
LICENSES:
DUMP GROUNDS:

The county court of a second-class county has a ministerial duty to renew a license once issued under the County Option Dumping Law, on the tender by the licensee of the annual fee

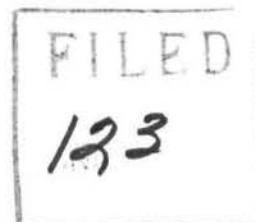
of twenty-five dollars, (1) To renew area under the County Option Dumping Law, which has initially complied with the application procedure 64.470(1), and (2) the licensee need twenty-five dollars.

a license to operate a disposal set out in Section 64.467, and but pay the annual fee of

OPINION NO. 123

March 23, 1971

Honorable Joe A. Johnson
Prosecuting Attorney
Jefferson County Court House
P. O. Box 246
Hillsboro, Missouri 63050



Dear Mr. Johnson:

This is in reply to your request for an opinion of this office in which you requested as follows:

"May the County Court of a second-class county refuse the renewal of a license to conduct a sanitary landfill when the requirements stated in the Statutes, namely application and tender of license fee and approval by the Division of Health has been made, or, is the granting of the renewal automatic and requires only an administrative approval by the County Court."

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We consider this a request which asks the procedure to be followed in renewing a license previously issued pursuant to the County Option Dumping Ground Law, Section 64.460 through 64.487, RSMo 1969.

The pertinent sections of the County Option Dumping Law would appear to be Sections 64.467, and 64.470, which state:

Section 64.467:

"1. Any person desiring a license to operate a disposal area shall make application therefor to the county court on forms provided by it.

"2. The application shall contain the name and residence of the applicant, the location of the proposed disposal area, and such other information as may be necessary. The application shall be accompanied by a fee of twenty-five dollars."

Section 64.470:

"1. Upon receipt of the application the county court shall notify the state division of health which shall inspect the proposed site and determine if the proposed operation complies with sections 64.460 to 64.487 and the rules and regulations adopted pursuant thereto.

"2. If the division of health reports favorably on the application, and the county court finds that the applicant is a responsible and suitable person to conduct the business, then the county court shall issue a license to the applicant.

"3. All licenses shall expire one year after issuance but may be renewed upon payment of an annual fee of twenty-five dollars."

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From the foregoing it can be seen that the requisites for the issuance of a license to operate a sanitary landfill are twofold: (1) A favorable report by the Division of Health as to the sanitary standards for the area contemplated as a dumping ground, and, (2) A finding by the county court that the applicant is a responsible and suitable person for the conducting of a business of a dumping ground. That both findings are necessary, reference should be had to State v. McClary, (K.C.Ct.App. 1966), 399 S.W.2d 597.

You have indicated that the foregoing procedures have been followed and you have requested an opinion on the procedure that must be followed for the renewal of a license to operate a disposal area. The pertinent section of the County Option Dumping Law in this regard is Section 64.470(3) which states as follows:

"3. All licenses shall expire one year after issuance but may be renewed upon payment of an annual fee of twenty-five dollars."

As can be seen from the foregoing section, the licensee of a dumping ground, may exercise his discretion, and his license "may be renewed upon payment of an annual fee of twenty-five dollars." Thus, it is the conclusion of this office, that to renew a license for the operation of a disposal area under the County Option Dumping Law, the only requisite is compliance with Section 64.470(3) by the licensee, that requirement being the payment of the annual twenty-five dollar fee. This conclusion is compelled, that upon payment of the twenty-five dollar annual fee the county court has but a ministerial duty, by the fact that the statutes provide only for revocation of the license to operate a disposal area under Section 64.473, RSMo 1969, which states as follows:

"The county court may revoke any license after reasonable notice and hearing if it finds that the disposal area is not operated in a sanitary manner as required in sections 64.460 to 64.487."

Thus, it is the conclusion of this office, that to renew a license to operate a disposal area under the County Option Dumping Law, the licensee need but pay the annual fee of twenty-five dollars.

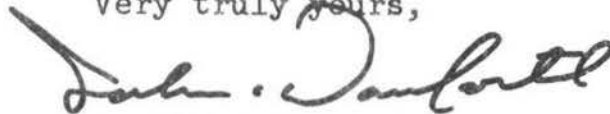
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CONCLUSION

It is the opinion of this office that the county court of a second-class county has a ministerial duty to renew a license once issued under the County Option Dumping Law, on the tender by the licensee of the annual fee of twenty-five dollars, (1) To renew a license to operate a disposal area under the County Option Dumping Law, which has initially complied with the application procedure set out in Section 64.467, and 64.470(1), and (2) the licensee need but pay the annual fee of twenty-five dollars.

The foregoing opinion, which I hereby approve was prepared by my Assistant, Kenneth M. Romines.

Very truly yours,



JOHN C. DANFORTH
Attorney General