

Ordinance 2004- 13

AN ORDINANCE RELATING TO THE IMPOSITION OF A COUNTY LICENSE FOR OFF-SITE WASTE MANAGEMENT FACILITIES LOCATED WITHIN THE TERRITORIAL JURISDICTION OF HOPKINS COUNTY.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted KRS 68.178, which authorizes the Fiscal Court of any county to impose a license fee for Off-Site Waste Management Facilities and a license fee for Solid Waste Landfills located within the county; and

WHEREAS, Off-Site Waste Management Facilities and Solid Waste Landfills located within the county have an impact on county road wear, roadside litter, emergency services, and other services provided by county governments; and

WHEREAS, said facilities demonstrate the need to protect the environment through recycling.

NOW THEREFORE, BE IT ORDAINED by the Fiscal Court of the County of Hopkins, Commonwealth of Kentucky:

Section One: Definitions

The following words, when used in this ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

1. "County" means Hopkins County, Kentucky.
2. "Administrator" shall mean the individual or individuals designated by the Hopkins County Fiscal Court as being responsible for the collection of the Off-Site Waste Management Facility license fee and the Solid Waste Landfill license fee and the accounting thereof to the Fiscal Court. Said designation shall be by court order and may be changed from time to time as circumstances dictate.
3. "Licensee" means any "person" as defined herein, required hereunder to file a return or to pay a license fee thereon under this ordinance. When pronouns are used, the singular shall include the plural and the masculine shall include the feminine.
4. "Off-Site Waste Management Facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such waste or otherwise, but does not include a container located on property where solid

waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal. It does not include those treatment, storage, or disposal activities which occur incident to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

5. "Waste" means all waste of whatever type or kind including, without limitation, waste as defined in KRS 224.01-010(31).
6. "Person" means a natural person, partnership, corporation, association, joint venture, limited liability company, or any other legal entity.
7. "Gross Receipts" means the total amount of all consideration received by the Off-Site Waste Management Facility or Solid Waste Landfill, from whatever source, valued in money, whether received in money or otherwise, without any deduction for any expense or cost of doing business including without limitation the following:
 - A. The costs of materials used, labor or service costs, interest paid, losses, or any other expenses in connection with the operation of the facility;
 - B. Taxes or other license fees of any kind paid by the facility; or
 - C. Costs of professional services of any kind incurred by the facility.

Section Two: Effective Date

This ordinance shall become effective November 1, 2004, upon being duly adopted by the Hopkins County Fiscal Court after a second reading and publication.

Section Three: Fee Rate

Commencing November 1, 2004, every Person who owns or operates an Off-Site Waste Management Facility located within the territorial jurisdiction of Hopkins County, Kentucky, shall pay to the Administrator, as collecting officer for the county, an annual license fee in an amount equal to 2% per annum of the Gross Receipts of such Off-Site Waste Management Facility. The proceeds from the license fee shall be used to defray the general revenue requirements of the county including road maintenance and recycling programs.

Commencing June 1, 2004, every Person who owns or operates a Solid Waste Landfill located within the county shall pay a license fee equal to 5% of Gross Receipts of such Solid Waste Landfill.

Section Four: Fee Payment Schedule

- A. Each Person subject to the license fee imposed by this ordinance shall remit payment on a quarterly basis to the Administrator. In addition, each Person shall file a license fee return on a form provided for said purpose. Said payment and form shall be due within 30 days after the close of the preceding quarter. Quarters shall be based on the calendar year as follows:

First quarter:	January, February, March
Second quarter:	April, May, June
Third quarter:	July, August, September
Fourth quarter:	October, November, December

- B. The Administrator shall have the authority to extend the filling of said return in his discretion. Such extension shall be upon the written request of the Licensee; provided, however, that any balance unpaid when payment is due shall bear interest at 12% per annum until paid and that no such extension shall exceed 60 days.

Section Five

It shall be the duty of the Administrator to collect and receive the license fees imposed by this ordinance; to keep records of the amount received by him from each Licensee and the date of such receipts; and to pay all money so received into the County Treasury upon receipt.

Section Six

The Administrator is hereby charged with the enforcement of the provisions of this ordinance and is hereby empowered to take all action which he may deem necessary relating to any matter or thing pertaining to the administration and re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made and the rulings made by him shall be binding upon the Licensee.

Section Seven

The Administrator, or any agent or employee designated in writing by him, is hereby authorized to examine the books, papers, and records of any Licensee or supposed Licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this ordinance. Each such Licensee or supposed Licensee is hereby directed and required to give the Administrator, his duly authorized agent or employee, the means, facilities and opportunity for such examination and investigation as are hereby authorized. The Administrator is hereby authorized to examine any Person under oath concerning any information relevant to the collection of the license fee imposed herein and to this end may compel the production of books, papers, records, and the attendance of all Persons before him, whether as parties or witnesses, as he believes to

have knowledge of such information.

Section Eight

Any information gained by the Administrator or any other officer, agent or employee of the county as a result of any returns, investigations, hearings, or verifications required or authorized by this ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, provided however the Administrator may disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his duly authorized agent all such information and may permit him or his agent to inspect any of the books and records of the Administrator if the said Commissioner of Revenue of the Commonwealth of Kentucky grants the Administrator the reciprocal right to obtain information from the files and records of the Department of Revenue of the Commonwealth of Kentucky and maintains the privileged character of the information so furnished him.

Section Nine

This ordinance is passed in accordance with KRS 68.178. Accordingly, the county is authorized to accept payments in lieu of the fee provided for herein under duly executed contracts between the County and an Off-Site Waste Management Facility.

Section Ten

The license fee imposed herein shall apply to all covered facilities existing on the date of the passage hereof and any such facilities licensed hereafter. This ordinance shall not be construed, however, as the licensing, permitting or consent to operate any new facility and such license will be issued only pursuant to applicable law.

Section Eleven

The provisions of this ordinance are severable. If any sentence, clause, section, or part of this ordinance or the application thereof to any particular circumstance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance, it being the intent of the Hopkins County Fiscal Court to adopt such provision, section, paragraph, sentence, and part thereof separately and independently of each other.

Section Twelve

Any person or licensee as defined herein violating any of the provisions of this Ordinance shall be deemed guilty of a Class A Misdemeanor and upon conviction thereof shall be fined an amount not to exceed \$500.00 and/or incarceration not to exceed 12 months in jail, or both fine and jail for each offense. Each day an offense continues shall constitute a separate offense and shall be punishable as such hereunder.

Upon motion made by Magistrate Hawkins, and seconded by Magistrate Wheeler, a first reading was held on the 7th day of October, 2004, whereupon the vote was called, and on roll call, the vote stood:

Magistrate Karol Welch	<u>Aye</u>
Magistrate Coletta Wheeler	<u>Aye</u>
Magistrate Tim Riggs	<u>Aye</u>
Magistrate Larry Wilson	<u>Nay</u>
Magistrate Larry Rogers	<u>Nay</u>
Magistrate Mike Duncan	<u>Aye</u>
Magistrate Jon Garrett	<u>Nay</u>
Judge/Executive Patricia Hawkins	<u>Aye</u>

Patricia Hawkins
Hopkins County Judge/Executive

Attest:

Devra Steckler
Hopkins County Clerk

Upon second reading of the foregoing ordinance held on the ____ day of _____, 2004, it was moved by Magistrate _____, and seconded by Magistrate _____, that the ordinance be duly adopted. Whereupon, the vote was called, and on roll call, the vote stood:

Magistrate Karol Welch	_____
Magistrate Coletta Wheeler	_____
Magistrate Tim Riggs	_____
Magistrate Larry Wilson	_____

Magistrate Larry Rogers

Magistrate Mike Duncan

Magistrate Jon Garrett

Judge/Executive Patricia Hawkins

Whereupon, Hopkins County Judge/Executive Patricia Hawkins declared the ordinance adopted on its second reading, affixing her signature and the date hereto, and declared that the same be recorded.

Patricia Hawkins
Hopkins County Judge/Executive

Attest:

Devra Steckler
Hopkins County Clerk