

GOODHUE COUNTY, MN

ORDINANCE

Aggregate Material Removal Production Tax

An ordinance imposing a production tax on the removal of aggregate from pits, quarries, or deposits located within the County; establishing reporting requirements; providing penalties for failure to comply with the provisions of this ordinance, pursuant to Minnesota Statute 298.75, as amended by Minnesota Laws 2001 and 2006.

If any person has an existing contract, dated prior to October 16, 2001, that binds that person to a set price beyond January 1, 2002, that person may request an exemption of the tax for that specific contract. That person must submit copies of the contract to the County Auditor for review, and a recommendation and report will be submitted to the County Board for a decision on the exemption.

THE COUNTY BOARD OF GOODHUE COUNTY ORDAINS:

1.00 Definitions. The following words and phrases, when used in this ordinance, unless the content clearly indicates otherwise, shall have the meanings given them in this section.

1.01 “County” shall mean the County of Goodhue.

1.02 “County Board” shall mean the Goodhue County Board of Commissioners and their authorized representatives.

1.03 “Aggregate material” shall mean nonmetallic natural mineral aggregate including, but not limited to, sand, silica sand, gravel, crushed rock, limestone, granite, and borrow, but only if the borrow is transported on a public road, street, or highway. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

1.04 “Person” shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

1.05 “Operator” shall mean any person engaged in the business of removing aggregate from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate in a marketable product or service.

1.06 “Extraction Site” shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.

1.07 “Importer” shall mean any person who buys aggregate material produced from a county that does not impose an aggregate material removal production tax or another state and causes the aggregate material to be imported into a county in this state which imposes a tax on aggregate material.

2.00 IMPOSITION OF TAX

2.01 The County imposes upon every operator a production tax of 21.5 cents per cubic yard or of 15 cents per ton of aggregate material, excavated in the county except that the County Board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from the county.

2.02 The tax shall not be imposed on aggregate material excavated in the county until the aggregate material is transported from the extraction site or sold, whichever occurs first. When aggregate material is stored in a stockpile within the State of Minnesota and a public highway, road, or street is not used for transporting the aggregate material, the tax shall not be imposed until either when the aggregate material is sold, or when it is transported from stockpile site, or when it is used from the stockpile, whichever occurs first.

There shall be a production tax of 21.5 cents per cubic yard or 15 cents per ton imposed for any aggregate material imported into Goodhue County. The tax shall be imposed when the aggregate material is imported from the extraction site or sold. When imported aggregate material is stored in a stockpile within the state of Minnesota and a public highway, road or street is not used for transporting the aggregate material, the tax shall be imposed either when the aggregate material is sold, when it is transported from the stockpile site, or when it is used from the stockpile, whichever occurs first.

If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road, or street, the tax imposed shall be proportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in Minnesota, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

3.00 REPORTING REQUIREMENTS

3.01 By the 14th day following the last day of each calendar quarter every operator or importer shall make and file with the County Auditor of the county in which the aggregate material is removed or imported, a correct report under oath, in such form and containing such information as the Auditor shall require relative to the quantity of aggregate material removed or imported during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due.

3.02 If any of the proceeds of the tax is to be apportioned, as in subdivision 2, the operator or importer shall also include in the report any relevant information concerning the amount of aggregate material transported, the tax and the county of destination. The County Auditor shall notify the County Treasurer of the amount of such tax and the county to which it is due. The County Treasurer shall remit the tax to the appropriate county within 30 days.

3.03 If the County Auditor has not received the report required by Section 3.01 by the 15th day after the last day of each calendar quarter from the operator or importer, or has received an erroneous report, the County Auditor shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days. An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the County Auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of Chapter 278 and shall be governed by Sections 278.02 and 278.13.

4.00 ENFORCEMENT, VIOLATIONS, AND PENALTIES

4.01 Failure to file the report and submit payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment is due and no statement of objection has been filed as provided in 3.03, and a penalty of \$10 for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed shall be collected as part of the tax and credited to the county revenue fund. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

4.02 It is a misdemeanor for any operator or importer to remove aggregate from a pit, quarry, or deposit, or for any importer to import aggregate material unless all taxes due under this ordinance for all previous reporting periods have been paid or objections thereto have been filed.

4.03 It is a misdemeanor for the operator or importer who is required to file and report to file a false report made with intent to evade the tax.

4.04 The County Auditor or its duly authorized agent may examine records, including computer records, maintained by an importer or operator. The term "record" includes, but is not limited to, all accounts of an importer or operator. The County Auditor or its duly authorized agent must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate material to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six (6) years.

4.05 Any person who shall violate this ordinance shall be guilty of a misdemeanor and upon conviction thereof, punished by a fine not to exceed seven hundred dollars (\$700) or by imprisonment in the county jail for a period not to exceed ninety (90) days or both.

5.00 DISTRIBUTION OR REVENUES

5.01 All money collected as taxes under this ordinance shall be deposited in the County treasury and credited as follows:

- The County Auditor may retain an annual administrative fee of up to five percent (5%) of the total taxes collected in any year.
- Forty two percent (42.5%) to the County road and bridge fund for expenditure for the maintenance, construction, and reconstruction of roads, highways, and bridges;
- Forty two percent (42.5%) to the general fund of the city or town in which the mine is located, or to the county, if the mine is located in an unorganized town to be expended for maintenance, construction, and reconstruction of roads, highways, and bridges; and
- Fifteen percent (15%) to a special reserve fund which is hereby established, for expenditure for the restoration of abandoned pits, quarries, or deposits located within the County.

If there are no abandoned pits, quarries, or deposits located used for any other unmet reclamation need or for conservation or other environmental needs.

6.00 SEVERABILITY

6.01 It is hereby declared to be the intention of the County Board that this ordinance, and every provision thereof, shall be severable in accordance with the following:

- If any Court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular pit, quarry, deposit, or operator or importer, such judgment shall not affect the application of said provision to any other pit, quarry, deposit, or operator or importer not specifically included in said judgment.

7.00 PROVISIONS ARE CUMULATIVE

7.01 The previously adopted Aggregate Material Removal Production Tax Ordinance as enacted in 2006 is hereby superseded and replaced by terms of this Ordinance. All monies collected in 2009 pursuant to said 2006 Aggregate Material Removal Production Tax Ordinance shall be returned to the payors upon adoption of this Ordinance.

7.02 Except as specifically repealed herein, the provisions of this Ordinance are cumulative to all other laws, ordinances, and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this Ordinance.

8.00 EFFECTIVE DATE

8.01 This ordinance shall be effective January 1, 2010.