

ORDINANCE NO. 151

BENTON COUNTY

AGGREGATE REMOVAL TAX ORDINANCE

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; and providing for distribution of revenues collected under this ordinance, pursuant to Minnesota Laws 1980, Chapter 607, Article 19, sections 5-6 and Minnesota Laws 1981, First Special Session, Chapter 1, Article 10, sections 17-19 as amended by Minnesota Laws 1982, Chapter 523, Article XIII, sections 1-4.

THE COUNTY BOARD OF BENTON 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 Benton.

1.02. "County Board" shall mean the Benton County Board of Commissioners and their authorized representatives.

1.03. "Aggregate material" shall mean non-metallic natural mineral aggregate including, but not limited to, sand, silica sand, gravel, building stone, crushed rock, limestone, and granite. Aggregate material shall not include dimension stone and dimension granite.

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 material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the

use of the aggregate material 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.

2.00. IMPOSITION OF TAX

2.01. A production tax on the removal of aggregate material from pits, quarries, or deposits located within this county is hereby imposed. The rate of tax shall be ten (10) cents per cubic yard or seven (7) cents per ton of aggregate material removed.

2.02. Any operator who removes aggregate material from a pit, quarry, or deposit located within this county shall pay a production tax thereon. The tax shall be imposed when the aggregate material is transported from the extraction site, provided however, that when in the case of storage, the stockpile is within the State of Minnesota and the highways are not used for transporting the aggregate material, the tax shall be imposed when the aggregate material is sold.

2.03. In the event that 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 by this section shall be apportioned 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 shall make and file with the County Auditor 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 during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due. If any of the proceeds of the tax is to be apportioned as provided in section 2.03, the operator shall also include on 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 the 30 days.

3.02. If any operator fails to make the report required by section 3.01, or files an erroneous report, the County Auditor shall, by the fifth working day after the date the report became due, determine the amount of tax due and notify the operator by registered mail of the amount of tax so determined. An operator may, within 30 days from the date of mailing the notice, 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 Minnesota Statutes Chapter 278, and shall be governed by sections 278.02 to 278.13.

4.00. VIOLATIONS AND PENALTIES

4.01 Failure to file the report shall result in a penalty of \$5.00

for each of the first 30 days, beginning on the 14th day after the date when the County Auditor has sent notice to the operator as provided in section 3.02 during which the report is overdue and no statement of objection has been filed. For each subsequent day during which the report is overdue and no statement of objection has been filed, a penalty of \$10.00 shall be assessed against the operator who is required to file the report. The penalties imposed by this section shall be collected as part of the tax. 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 who is required to file the report is guilty of a misdemeanor.

4.02. It is a misdemeanor for any operator to remove aggregate material from a pit, quarry, or deposit unless all taxes due under this ordinance for the previous reporting period have been paid or objections thereto have been filed pursuant to section 3.02.

5.00 DISTRIBUTION OF REVENUES

5.01. All monies collected as taxes under this ordinance shall be deposited in the county treasury and credited as follows, for expenditure by the county board:

(a) Seventy (70) percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;

(b) The remaining thirty (30) percent to the road and bridge fund of those townships and to the general funds of those cities from which the aggregate material was removed. The tax to be so

distributed shall be pro-rated to said funds in proportion to the amount of tax generated and collected from extraction pits within the eligible township or city.

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:

(a) 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.

(b) 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, such judgment shall not affect the application of said provision to any other pit, quarry, deposit, or operator not specifically included in said judgment.

7.00. PROVISIONS ARE CUMULATIVE

7.01. 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 the day after passage by the county board but no earlier than January 1, 1983.

ATTEST:

Ray Carriveau
Clerk of County Board

Walter Lewandowski
Walter Lewandowski, Chairman

164697

Office of County Recorder
Benton County, Minnesota

I Hereby certify that the within
instrument was filed in this office
for record on the 17th day of March

A.D. 1923 at 9 O'clock A.M

and was duly recorded in Book 1

of Subdivision page 420.

F. G. Johnson
County Recorder

By: _____
Deputy

County Auditor