

An ordinance, imposing a production tax on the removal of aggregate from pits, quarries, or deposits located within the County; establishing reports requirements; providing penalties for failure to comply with the provisions of this ordinance; and providing for distribution of revenues collected under this ordinance, is hereby established pursuant to Minnesota Statutes Section 298.75 2008.

THE COUNTY BOARD OF COMMISSIONERS OF MILLE LACS COUNTY ORDAINS:

Section 1. Definitions. When used in this ordinance, the following words and phrases shall have the meanings given them in this section, unless the content clearly indicates otherwise.

- 1.01 “Aggregate material” shall mean non-metallic 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 shall not include dimension stone and dimension granite. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.
- 1.02 “Borrow” shall mean granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, the ratio of the portion passing the (#200) sieve divided by the portion passing the (1 inch) sieve may not exceed 20 percent by mass.
- 1.03 “County” shall mean the counties of Pope, Stearns, Benton, Sherburne, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnommen, Clay, Becker, Carlton, St. Louis, Rock, Murray, Wilkin, Big Stone, Sibley, Hennepin, Washington, Chisago, Ramsey, and Mille Lacs. County also means any other county whose Board of Commissioners has voted, after a public hearing, to impose the tax under this section and has notified the Commissioner of Revenue of the imposition of the tax.
- 1.04 “Extraction Site” shall mean a pit, quarry, or deposit containing aggregate and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.
- 1.05 “Importer” shall mean any person who buys aggregate material produced from a county not listed in section 1.03 or another state and causes the aggregate material to be imported in Mille Lacs County.
- 1.06 “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.
- 1.07 “Person” shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

Section 2. Imposition of Tax

- 2.01 A production tax on aggregate material removed for sale from pits, quarries, or natural deposits located within Mille Lacs County, or imported to Mille Lacs County, is hereby imposed. The rate of tax shall be fifteen (15) cents per ton, or twenty-one and one-half (21.5) cents per yard, of aggregate material removed.
- 2.02 Any operator who removes for sale aggregate from a pit, quarry, or natural deposit located within Mille Lacs County shall pay a production tax thereon. The tax shall be imposed when the aggregate 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 the time when the aggregate material is sold, or it is transported from the stockpile site, or it is used from the stockpile, whichever occurs first.
- 2.03 Any importer who buys aggregate material produced from a county other than those included in section 1.03 shall pay the production tax on the material so imported. This tax is due when the aggregate material is imported into Mille Lacs County.
- 2.04 In the event that the aggregate material is transported directly from the extraction site to a waterway, railway, or other mode of transportation other than 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.

Section 3. — Exemptions from the Tax *Amendment to exclude this exemption effective 1/1/15*

~~Operators shall be exempted from the tax who, in the previous year, removed less than 1,000 cubic yards of aggregate material from the County.~~

Section 4. Reporting Requirements

- 4.01 By the 14th day following the last day of each calendar quarter, every operator selling aggregate removed from operator's extraction site during said quarter, must file with the County Auditor-Treasurer a report under oath stating the quantity of aggregate so removed. The report shall be accompanied by a remittance of the amount of tax due. If any of the proceeds of the tax are to be apportioned as provided in Section 2.04, the operator shall also include on the report any relevant information concerning the amount of aggregate transported, the tax, and the county destination. The County Auditor-Treasurer shall remit the tax to the appropriate county within 30 days of receipt of the tax by Mille Lacs County.
- 4.02 If the County Auditor-Treasurer has not received the report by the 15th day after the last day of each calendar quarter from the operator or importer as required by section 4.01 or has received an erroneous report, the County Auditor-Treasurer shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within in the next fourteen (14) days. An operator or importer may, within thirty (30) days from the date of the mailing the notice, and upon payment of the

amount of tax determined to be due, file in the office of the County Auditor-Treasurer a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed a petition within the meaning of Minnesota Statutes Chapter 278, and shall be governed by Section 278.02 to 278.13.

Section 5. *Violations and Penalties*

- 5.01 Failure to file a report and submit payment shall result in a penalty of five dollars (\$5) for each of the first thirty (30) days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment are due and no statement of objection has been filed as provided in Section 4, and a penalty of ten dollars (\$10) for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed by this subdivision 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 sixty (60) days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report will be guilty of a misdemeanor.
- 5.02 It is a misdemeanor for any operator or importer 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 4.02.
- 5.03 It is a misdemeanor under this ordinance for the operator or importer who is required to file a report to file a false report with intent to evade the tax. This provision does not alter the consequences of a violation of state law.

Section 6. *Distribution of Revenues*

- 6.01 All monies collected as taxes under this ordinance shall be deposited in the Mille Lacs County treasury and credited as follows, for expenditure by the County Board:
- a) The Mille Lacs County Auditor-Treasurer shall retain an annual administrative fee of five (5) percent of the total taxes collected in any year.
 - b) The balance of the taxes after deduction according to section 6.01(a), shall be credited as follows:
 - i. Forty-two and one-half (42.5) percent to the Mille Lacs County road and bridge fund for expenditure for the maintenance, construction, and reconstruction of roads, highways, and bridges;
 - ii. Forty-two and one-half (42.5) percent to the general fund of the city or town in which the mine is located, or to Mille Lacs County, if the mine is located in an unorganized town, to be expended for maintenance, construction, and reconstruction of roads, highways, and bridges;
 - iii. Fifteen (15) percent 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

within the County, this portion of the tax shall be used for any other unmet reclamation need or for conservation or other environmental needs.

6.02 The County Auditor-Treasurer or his/her duly authorized agent may examine any and all records maintained by an operator, importer, or pit owner. The term "record" includes, but is not limited to, all accounts of an importer or operator. The County Auditor-Treasurer must have access at all reasonable times to inspect and copy all business records related to an operator's or importer's collection, transportation, and disposal of aggregate, and access to inspect the extraction site, 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 years.

Section 7. Severability

7.01 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.

Section 8. Provisions are Cumulative

8.02 The provisions of this ordinance are cumulative to all other laws, ordinances, and regulations hereto passed, or which may be passed hereafter, covering any subject matter in this ordinance.

Section 9. Effective Date

9.01 This ordinance shall become effective January 1, 2010.

9.02 Passed by the Mille Lacs County Board of Commissioners this 15th day of December, 2009.