



COUNTY OF CHISAGO

BOARD OF COMMISSIONERS

Chisago County Government Center
313 North Main Street, Room 172
Center City, MN 55012-9663

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John Moosey
County Administrator

Commissioners:

District 1
Lynn Schultz
District 2
Rick Greene
District 3
Bob Gustafson
District 4
Ben Montzka
District 5
Mike Robinson

Commissioner Montzka offered the following resolution and moved its adoption:

**RESOLUTION NO. 081217-1
APPROVING AN AMENDED
AGGREGATE REMOVAL TAX ORDINANCE
ORDINANCE NO. 04-2**

CHISAGO COUNTY, MINNESOTA

AN ORDINANCE, IMPOSING A PRODUCTION TAX ON THE REMOVAL OF AGGREGATE MATERIAL 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, PURSUANT TO MINNESOTA STATUTES SECTION 298.75 2008.

THE COUNTY BOARD OF CHISAGO COUNTY ORDAINS:

- 1.00** DEFINITIONS. The following words and phrases, when in used in this ordinance unless the content clearly indicates otherwise, shall have the meanings given them in this section.
- 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** "Person: shall mean any individual, firm, partnership, corporation, organization, trustee, association or other entity.
- 1.03** "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 in a marketable product of or service.
- 1.04** "Importer" shall mean any person who buys aggregate material produced from a county not listed in section 1.05 or another state and causes the aggregate material to be imported in Chisago County.
- 1.05** "County" shall mean the counties of Pope, Stearns, Benton, Sherburne, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomen, Clay, Becker, Carlson, St. Louis, Rock, Murray, Wilken, Big Stone, Sibley, Hennepin, Washington and Ramsey. County also means any
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other county whose board 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.

- 1.06 “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.
- 1.07 “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.

2.00 IMPOSITION OF TAX

- 2.01 A production tax on aggregate material removed for sale from pits, quarries, or natural deposits located within Chisago County or imported to Chisago 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 material from a pit, quarry, or natural deposit located within Chisago County shall pay a production tax thereon. The tax shall be imposed when 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 the stockpile site, or when 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 1.05 shall pay the production tax on the material so imported. This tax is due when the aggregate material is imported into Chisago County.
- 2.04 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 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.
- 2.05 The Chisago County Board may by resolution exempt the first 575 tons or 400 cubic yards per year on those operators who have removed in Chisago County or importers who have imported into Chisago County less than 575 tons or 400 cubic yards of aggregate material.

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 Chisago County Auditor a correct report under oath stating the quantity of aggregate material removed or imported during the preceding calendar year. 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 material transported, the tax and the county destination. The Chisago County Auditor shall remit the tax to the appropriate county within 30 days of the receipt of the tax by Chisago County.

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3.02 If the Chisago County Auditor 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 3.01 or has received an erroneous report, the Chisago 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 Chisago 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 and 278.13.

4.00 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 section 3.02 herein, 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 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 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 under this ordinance 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.

4.03 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.

5.00 DISTRIBUTION OF REVENUES

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

- (a) The Chisago County Auditor 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 accordingly to section 5.01(a), shall be credited as follows:
 - (i) Forty-two and one-half (42.5) percent to the Chisago 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 Chisago 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.

In the event that 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.

5.02 The Chisago 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 Chisago County Auditor 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 Chisago County. The records must be maintained by the importer or operator for no less than six years.

6.00 SEVERABILITY

6.01 It is hereby declared to be the intention of the Chisago 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 include in said judgment.

7.00 PROVISIONS ARE ACCUMULATIVE

7.01 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.

7.02 The County Board shall minimally review the Aggregate Removal Tax Ordinance and the Distribution Process on an annual basis.

8.00 EFFECTIVE DATE

8.01 This ordinance shall be effective January 1, 2005 and as amended, January 1, 2009.

Originally passed by the Chisago County Board of Commissioners, July 7, 2004 and amended by the Chisago County Board of Commissioners, December 17, 2008.

Commissioner Greene seconded the resolution and upon a vote being taken thereon, the following voted:

IN FAVOR THEREOF: Montzka, Schultz, Greene, Gustafson

OPPOSED: Robinson

Whereupon the resolution was declared duly **passed and adopted.**

Lynn Schultz

Lynn Schultz, Chair

Attest: *DeAnna M. Lilienthal*
DeAnna M. Lilienthal
Clerk, County Board

CERTIFICATION

State of Minnesota)
) ss.
County of Chisago)

I hereby certify that the foregoing resolution is a true and correct copy of a resolution presented to and adopted by the Board of Commissioners of Chisago County at a duly authorized meeting thereof on the 17th day of December, 2008.

DeAnna M. Lilienthal
DeAnna M. Lilienthal
Clerk, County Board



Published in the Official Newspaper(s):
Chisago County Press, Lindstrom on Thursday, January 1, 2009
The STAR, Cambridge on Wednesday, December 31, 2008



OFFICE OF COUNTY RECORDER
Chisago County, Minnesota



I hereby certify that this document was filed in this office on 1/16/2009 at 11:37:53 AM and was duly recorded as document number **A-505727**

LEE OLSON-County Recorder, by ___ Deputy.

Well Certificate: ___ Received ___ Not Required

Fees: Total \$.00

Received from/return to:
CHISAGO COUNTY ADMINISTRATOR
ATTN: DEANNA