

# Ordinance No. 23

## Kanabec 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 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 Section 298.75 Minnesota Statutes 2015.

#### **THE COUNTY BOARD OF KANABEC 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 “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 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.
- 1.04 “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 into Kanabec County.
- 1.05 "County" means a county imposing the tax under this section on December 31, 2014, or any 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.

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 county that imposes the aggregate production tax shall impose upon every operator a production tax of 21.5 cents per cubic yard or 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 that county. 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 the aggregate material is sold, or it is transported from the stockpile site, or it is used from the stockpile, whichever occurs first.

2.02 Any operator who removes for sale aggregate from a pit, quarry, or natural deposit located within this County shall pay a production tax thereon. The tax shall be imposed when the aggregate 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, the tax shall be imposed when the aggregate is sold.

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 Kanabec County.

2.04 In the event that the aggregate 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 is extracted and the county to which the aggregate is originally transported. If that destination is not located in Minnesota, then the county where the aggregate was extracted shall receive all of the proceeds of the tax.

2.05 The Kanabec County Board may by resolution exempt the first 575 tons or 400 cubic yards per year on those operators who have removed in Kanabec County or importers who have imported into Kanabec 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 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 the receipt of the tax by Kanabec County.
- 3.02 If the County Auditor/Treasurer has not received the report by the 15<sup>th</sup> 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 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 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/Treasurer 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 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 subdivision 4, 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 for any operator to remove aggregate 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 county treasury and credited as follows, for expenditure by the county board:

- (a) The county auditor shall retain an annual administrative fee of up to five percent of the total taxes collected in any year.
- (b) The remaining funds shall be allocated in the following manner:
  - i. 42.5 percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;
  - ii. 42.5 percent 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
  - iii. 15 percent 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 or to a fund to restore abandoned pits.

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.

In the event that there are no abandoned pits, quarries, or deposits located upon public or tax forfeited lands within the county, this portion of the tax shall be deposited in the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges.

5.02 The County Auditor/Treasurer or its duly authorized agent may examine records, including computer records, maintained by an importer or operator and pit owners. 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 importer's or operator's collection, transportation, and disposal of aggregate 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 years.

## 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 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.

8.00 EFFECTIVE DATE

8.01 This ordinance shall be effective January 1, 2017.

8.02 Passed by the Kanabec County Board of Commissioners, July 6, 2016.

An official copy of this Ordinance is on file in the office of the Kanabec County Coordinator, 18 North Vine Street, Suite 181, Mora, Minnesota.

Attest: \_\_\_\_\_  
Patrick Christopherson  
County Coordinator

\_\_\_\_\_  
Gene Anderson, Chairperson  
Board of County Commissioners