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BENTON COUNTY MINNESOTA  
MARILYN J NOVAK  
COUNTY RECORDER

ORDINANCE NO. 448

By: CK

BENTON COUNTY

8-V-I

**AGGREGATE 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, and Minn. Stat. §298.75 (2010).

THE COUNTY BOARD OF BENTON COUNTY ORDAINS THAT BENTON COUNTY ORDINANCE NO. 151 SHALL BE AMENDED TO READ AS FOLLOWS:

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:

(1) 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, provided that nonmetallic aggregate material does not include dimension stone and dimension granite; and,

(2) taconite tailings, crushed rock, and architectural or dimension stone and dimension granite removed from a taconite mine or the site of a previously operated taconite mine.

Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

1.04. "Person" shall mean an individual, firm, partnership, corporation, organization,

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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.

1.07. "Importer" shall mean any person who buys aggregate material excavated from a county that does not impose an aggregate tax and causes the aggregate material to be imported into Benton County.

1.08. "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 the removal of aggregate material from pits, quarries, or deposits located within this county is hereby imposed. The rate of tax shall be 21.5 cents per cubic yard or 15 cents per ton of aggregate material excavated.

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, or sold, whichever occurs first. When aggregate material is stored in a stockpile within the state of

Minnesota and a public highway, street or road is not used for transporting the aggregate material, the tax shall be imposed 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. An importer shall pay a tax on all aggregate which the importer causes to be imported into Benton County. The amount of the tax shall be 21.5 cents per cubic yard or 15 cents per ton of aggregate material.

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 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 14<sup>th</sup> day following the last day of each calendar quarter, every operator and importer shall make and file with the County Auditor-Treasurer a correct report under oath, in such form and containing such information as the County Auditor-Treasurer 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. 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 of destination. The County Auditor-Treasurer shall remit the tax to the appropriate county within 30 days.

3.02. If any operator or importer fails to make the report required by section 3.01, or files 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, 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.

3.03. The County Auditor-Treasurer, 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-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 not less than six years.

#### 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 15<sup>th</sup> day after the last day of each calendar quarter when the County Auditor-Treasurer has sent notice to the operator or importer 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 or importer who is required to file the report. The penalties imposed by this section 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 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. The County Auditor-Treasurer may retain an annual administrative fee of up to five percent (5%) of the total taxes collected in any year.
- b. The balance of the taxes, after any deduction under paragraph (a) shall be credited as follows:
  - 1) 42.5 percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;
  - 2) 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
  - 3) 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 <sup>used</sup> ~~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:

(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 or 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

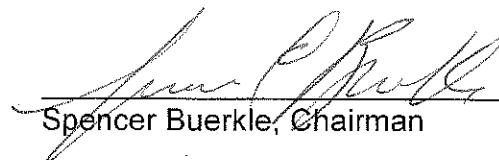
7.01. The provisions of this ordinance are cumulative to all other laws, ordinances, and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this ordinance.

8.00. EFFECTIVE DATE

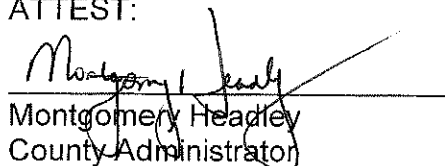
8.01. This ordinance shall be effective after passage and publication by the county board.

Dated: 09-06-11

BENTON COUNTY BOARD OF COMMISSIONERS

  
Spencer Buerkle, Chairman

ATTEST:

  
Montgomery Headley  
County Administrator