

An ordinance imposing a production tax on removal of aggregate from pits, quarries, or deposits located within the county; establishing reporting requirements for the removal of said aggregate; penalties for failure to comply with the provisions of the 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 WINONA 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 herein ascribed to them.

1.01. "County" shall mean the County of Winona.

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

1.03. "Aggregate" 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 or 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 and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate.

2.00. IMPOSITION OF TAX.

2.01. Winona County hereby imposes upon every operator engaged in the business of removing aggregate for sale from a pit, quarry or deposit in Winona

County, a production tax equal to 10 cents per cubic yard or 7 cents per ton of aggregate removed.

2.02. 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. In the event that the aggregate is transported directly from the extraction site to a waterway, railway or other 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 is extracted and the county to which the aggregate is originally transported. If the destination is not located in Minnesota, then the county where the aggregate 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 removed during the proceeding 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 2.03, the operator shall also include in the report any relevant information concerning the amount of aggregate 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 30 days.

3.02. If the 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. Any 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.

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4.01. Failure to file a 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 objections has been filed. For each subsequent day during which the report is overdue and no statement of objections 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 the statement of objections 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 from a pit, quarry, or deposit unless all taxes due under this ordinance for the previous reporting period have been paid or objections 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) Sixty (60) percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;

(b) Thirty (30) percent to the road and bridge fund of those towns as designated by the County Board and to the general fund or other designated fund of those cities as determined by the County Board, to be expended for maintenance, construction and reconstruction of roads, highways and bridges; and

(c) Ten (10) percent to a special reserve fund which is hereby established, for expenditure for the restoration of abandoned pits, quarries, or deposits located upon public and tax forfeited lands within the county.

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.

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 provisions of this ordinance to be invalid, such judgment shall not affect other provisions of the ordinance not specifically included in said judgment.

(b) If a court of competent jurisdiction shall adjudge invalid the application of any provisions 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 the judgment.


7.00. PROVISIONS ARE ACCUMULATIVE.

7.01. The provisions of this ordinance are accumulative 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.

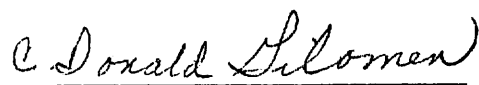
8.01. This ordinance shall be effective January 1, 1983.

Dated Dec 28, 1982.



Chairperson, Winona County Board
of Commissioners

Attest:



Clerk/Executive Secretary

AFFIDAVIT OF PUBLICATION

283212

State of Minnesota }
County of Winona } ss.

W. H. English

being duly sworn, on oath, says he is and during all the times herein stated has been foreman of the printer and the printer in charge of the Winona Daily News and has full knowledge of the facts herein stated as follows:

- (1) Said newspaper is printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 900 square inches.
(2) Said newspaper is a daily and is distributed at least six days each week, or five days in a week in which a legal holiday is included.
(3) Said newspaper has twenty-five percent of its news columns devoted to news of local interest to the community which it purports to serve and does not wholly duplicate any other publication and is not made up entirely of patents, plate matter and advertisements.
(4) Said newspaper is circulated in and near the municipality which it purports to serve, has at least 500 copies regularly delivered to paying subscribers, has an average of at least seventy-five percent of its total circulation currently paid or no more than three months in arrears and has entry as second-class matter in its local Post Office.
(5) Said newspaper purports to serve the City of Winona in the County of Winona and it has its known office of issue in the City of Winona in said county, established and open during its regular business hours for the gathering of news, sale of advertisements and sale of subscriptions and maintained by the managing officer of said newspaper or persons in its employ and subject to his direction and control during all such regular business hours and at which said newspaper is printed.
(6) Said newspaper files a copy of each issue immediately with the Minnesota Historical Society.
(7) Said newspaper has complied with all the foregoing conditions for at least two years preceding the day or dates of publication mentioned below.
(8) Said newspaper has filed with the Secretary of State of Minnesota prior to January 1, 1966 and each January 1 thereafter an affidavit in the form prescribed by the Secretary of State and signed by the managing officer of said newspaper and sworn to before a notary public stating that the newspaper is a legal newspaper.

He further states on oath that the printed notice hereto attached as a part hereof was cut from the columns of said newspaper, and was printed and published

therein in the English language on Tuesday the 14th day of December, 1982

That the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to wit:

abcdefghijklmnopqrstuvwxyz

Handwritten signature of W. H. English

Subscribed and sworn to before me this 14th day of December, 1982.

Handwritten signature of Dianne W. Hardtke

(Notarial Seal)



(Pub. Date Tue., Dec. 14, 1982) NOTICE OF INTENTION TO CONSIDER IMPOSING AN AGGREGATE REMOVAL TAX ORDINANCE. Please take notice that the Winona County Board of Commissioners shall meet on December 28, 1982 at 11:00 A.M. in the Commissioners Room of the Winona County Courthouse, Winona, Minnesota, to consider enacting an aggregate removal tax ordinance. The general purpose of the ordinance is to: impose a production tax on the removal of aggregate from pits, quarries, or deposits located within the county; establish reporting requirements for the removal of said aggregate; provide penalties for failure to comply with provisions of this ordinance; and provide 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. Dated Dec. 10, 1982. Catherine Sherwood, Winona County Recorder.

STATE OF MINNESOTA } S. S. COUNTY OF WINONA } OFFICE OF COUNTY RECORDER. I hereby certify that the within instrument was filed in this office at Winona for record on the 2 day of March A. D. 1983 at 4:45 o'clock P.M., and was microfilmed. Robert J. B... County Recorder. Deputy

**AFFIDAVIT OF
PUBLICATION**

TITLE OF CASE

Winona County

Notice of Intent to

Consider Imposing

Aggregate Removal Tax Ord.

INSERTION DATE

14th day of December 19 82

Published In



Winona Daily and Sunday News

Filed _____ 19__