WHEREAS, the Baker County Board of Commissioners for Baker County desires to adopt an ordinance to regulate surface mining operations in Baker County; and

WHEREAS, the Baker County Board of Commissioners has determined that it is in the best interests of Baker County to permit Baker County under ORS 517.780 (2) to conduct surface mining operations and to exempt those operations from the permit requirements of ORS 517.702 to 517.989 (DOGAMI Operating Permit) while leaving control of private surface mining with the State Department of Geology and Mineral Industries and other Baker County ordinances, and to establish a local surface mining administrator, and to adopt rules; therefore

THE BAKER COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1.01. Title
This ordinance shall be known as BAKER COUNTY SURFACE MINING ORDINANCE.

Section 1.02. Purpose
The purpose of this ordinance is to regulate County Operated surface mining operations within Baker County subject to ORS 517.780 (2) and OAR 632-030-0018 and the terms, provisions, rights and responsibilities as set forth in this ordinance.

Section 1.03. Surface Mining Administrator
The surface mining administrator is hereby appointed. The administrator shall be the Baker County Roadmaster.

Section 1.04. Definitions
For the purposes of this ordinance, the following definitions apply, unless the context requires otherwise:

(1) "County" means the County of Baker.

(2) "Landowner" means a person possessing fee title to a site where surface mining takes place.

(3) "Mineral" includes soil, coal, clay, stone, sand, gravel, metallic ore, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial or construction use.
"Overburden" means earth that lies above a natural deposit of a mineral.

"Reclamation" means activity to minimize disruption by surface mining or to rehabilitate earth surface adversely affected by such mining.

"Processing" includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphaltic and Portland cement concrete products located within the operating area.

"Surface mining":

(a) Includes the mining of minerals by removing overburden and extracting a natural mineral deposit thereby exposed, or simply such extraction;

(b) Includes open-pit mining, auger mining, production of surface mining waste, prospecting and exploring that extracts minerals or affects land, and excavation of adjacent or off-site borrow pits, other than those excavated for building access roads;

(c) Does not include excavation by a landowner or tenant primarily for the purpose of constructing or maintaining an access road, farming, operating a cemetery, or on-site construction; and

(d) Does not include removing material from a bed or bank of state water under a permit authorized by ORS 541.705 to 541.660.

Section 1.05. Permit Requirements

(1) This Ordinance does not apply to any person other than the County A state exclusion certificate issued by DOGAMI is required for a person other than the county to engage in any surface mining below the thresholds required by ORS Chapter 517.

(2) An owner of land may allow such mining on the land by a person required to have a state permit only if that person is carrying on the mining under such permit other than land leased to the county for surface mining.

(3) All surface mining, regardless of size, shall be conducted in accordance with the ordinances of Baker County Oregon Statutes and administrative regulations.

Section 1.06. County Mining Operations

All surface mining operations of the county shall comply with this Baker County Surface Mining Ordinance.

Section 1.07. Operational Requirements

The County shall conduct surface mining operations in accordance with state law.
(1) The county surface mining administrator shall see that the County mining meet all operation requirements on all county-operated surface mines.

(2) An access or service road, while used for the mining, shall be maintained using the County water truck in a reasonable manner to minimize dust on residences adjacent to the road provided that the County shall not be required to expend money on dust abatement.

(3) County surface mining operations shall not exceed noise limitations established by the State Department of Environmental Quality for a new industry unless it implements reasonable mitigation efforts.

(4) The Administrator shall determine whether the area subject to the Surface Mining Operation requires a fence to control access to the site.

(5) The Administrator shall determine what erosion control measures are necessary to prevent unusual erosion from the Surface Mining Operation.

(6) Reclamation shall be affected in accordance with the reclamation plan approved by the county court.

(7) Excavation shall be performed in a manner as necessary to allow a normal safe angle of repose during operations and provide the slopes identified in the reclamation plan for the depth of final excavation.

Section 1.08. Reclamation for County Surface Mining Site
A plan for reclaiming land used for county surface mining shall be approved by the Commissioners and shall include a timetable for protecting the land during mining and for reclaiming the land after final completion of all mining activities. The timetable shall provide in part for beginning reclamation within 12 months after the mining activity ceases on any segment of the area where the mining has occurred and for completing reclamation within three years after the mining ceases. If stated in the plan, the reclamation may be for a use other than the use of the land before the mining.

The county surface mining administrator shall see that the plan is executed. The plan shall provide for the following, where applicable:

(1) Rehabilitation of stream channels and banks to prevent erosion, sedimentation and other water-polluting effects of stream flow from exceeding their degree before the mining.

(2) Sloping 1.5H:1V or flatter for excavated slopes (benching allowed) and 2H:1V or flatter for fill slopes and other control to stabilize final surfaces and minimize public hazards.

(3) Vegetating disturbed areas in a manner conducive to restoring them to a natural state or to a state consistent with the future use stated in the reclamation plan.

(4) Preventing pools of water from becoming public nuisance or health hazards.
(5) Providing shoreline safety by use of a slope to permit safe entry to and exit from the water to a that is 3H:1V or flatter, to a depth of 6 feet below ordinary low water, or an equivalent form of shoreline safety.

(6) If the County intends to leave structures or equipment, those items can be specifically stated in the reclamation plan and therefore not require removal.

(7) Otherwise minimizing the adverse impact of the mined land on the livability, and appropriate development of adjacent property, at least to the extent that adjacent property could be adversely affected by other common development that is allowable on the mined property.

Section 1.09. Savings Clause.
Each section, paragraph, sentence, clause, word and provision of this ordinance is severable, and if any term shall be held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the ordinance nor any part thereof other than that specifically affected by such decision.

Section 1.10. Emergency Clause
This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

ADOPTED by the County Board of Commissioners this _____ day of__________, 2020.

____________________________________
William Harvey, Commission Chair

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Bruce Nichols, Commissioner

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Mark E. Bennett, Commissioner