

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

IN THE MATTER OF)
)
AN ORDINANCE IMPLEMENTING)
ONSITE WASTEWATER TREATMENT) **Ordinance 2025-03**
SYSTEM REQUIREMENTS)
)
)

WHEREAS, Baker County, by and through its Board of County Commissioners, entered into an Intergovernmental Agreement (“2025 IGA”), on May 7, 2025, with Harney County and Department of Environmental Quality (“DEQ”) which delegates authority to perform DEQ’s administrative, permitting, inspection and enforcement duties with regard to onsite, subsurface wastewater sewage systems as outlined in Oregon Revised Statutes;

WHEREAS, under the 2025 IGA, Baker County agreed to adopt and maintain ordinances consistent with state enforcement of the Onsite Wastewater Treatment System Program; and

WHEREAS, Baker County Board of County Commissioners hereby recognizes the importance of adequate administration and enforcement of the Onsite Wastewater Treatment System Program to the health and safety of all Baker County residents.

NOW, THEREFORE, THE BAKER COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1 - Jurisdiction

Pursuant to the 2025 Intergovernmental Agreement between the Oregon Department of Environmental Quality (“DEQ”), Baker County and Harney County (“2025 IGA”) in accordance with the authority provided by ORS 190.010, 190.030, 190.110, 454.640, 454.725, and 454.745, DEQ delegated to Baker County (“County”) its authority to perform DEQ's administrative, permitting, inspection and enforcement duties with regard to onsite, subsurface wastewater sewage systems under ORS 454.635, 454.655, 454.665, and 454.755. Under the terms of the 2025 IGA, Baker County has agreed to adopt and maintain ordinances consistent with state enforcement of the

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

onsite program. This ordinance shall have force and effect throughout the entirety of Baker County.

Section 2 – Purpose and Policy

- A. Purpose. It is the declared purpose of the County, in furtherance of the protection of the public health, safety and welfare of the community, to enact an ordinance that implements the authority delegated from DEQ to administer and enforce the subsurface wastewater management program in Baker County.
- B. Policy. It is the County's first priority to achieve voluntary compliance with ORS 454.605 to 454.755 with regard to subsurface sewage disposal systems by providing property owners with information about this ordinance and an opportunity to comply with its requirements with little or no penalty. In cases of reported and verifiable violations, however, enforcement procedures are designed and shall be administered to best fit the type and circumstance of the violation(s), consistent with the stated purpose and policy of this ordinance.

Section 3 – State Law Adopted and Incorporated by Reference

ORS 454.605 through 454.755 and OAR Chapter 340, Divisions 71 and 73 as may be amended from time to time (collectively “Onsite Wastewater Treatment System Requirements”) are adopted by this reference in their entirety as the onsite wastewater treatment system requirements applicable throughout Baker County for regulating and controlling the construction, alteration, repair, operation and maintenance of on-site wastewater treatment systems in the County.

Section 4 – Obligation to Comply with Onsite Wastewater Treatment System Requirements

All owners and users of real property in Baker County, including agents, occupants, lessees, sublessees, contract purchasers, shall comply with the Onsite Wastewater Treatment System Requirements and shall be responsible for:

- A. Treating wastewater generated on that property in accordance with the Onsite Wastewater Treatment System Requirements;
- B. Connecting all plumbing fixtures from which wastewater is or may be discharged to a sewerage facility or onsite system approved by DEQ or an

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

authorized agent such as Harney County;

- C. Maintaining, repairing, and replacing the onsite system on that property as necessary to ensure proper operation of the system in accordance with the Onsite Wastewater Treatment System Requirements; and
- D. Complying with all requirements for constructing, installing, maintaining, replacing, and repairing onsite systems required by the Onsite Wastewater Treatment System Requirements; and
- E. Paying all fees associated with permits, inspections and any other aspect of the Onsite Wastewater Treatment System Program as outlined in state law and approved by Baker County or an authorized agent such as Harney County. Fees are set by state statute and outlined in the attached Exhibit A. Fees will be changed whenever required by state law without changes to this Ordinance.

Section 5 – Administration and Delegation

Pursuant to the 2025 IGA, the Harney County Public Health Administrator, under the supervision of the Harney County Court, is authorized to administer and enforce this ordinance. Notwithstanding this delegation to Harney County, Baker County, through the Baker County Board of Commissioners and its appointed officers and officials, shall retain and share concurrent authority and jurisdiction to administer and enforce this ordinance if Baker County affirmatively elects to do so in a particular case and provides written notice to Harney County of that election.

Section 6 – Violations Generally, Strict Liability

- A. Violations. Violation of the requirements of any civil ordinance adopted by the County, a permit issued by the County, or a state law administered by the County is declared to be a civil infraction, public nuisance and a strict liability offense, which does not require proof of any culpable mental state.
- B. Continuing Violations. When a violation of this ordinance is of a continuing nature, a separately punishable violation occurs on each calendar day that the violation continues.
- C. Intermittent Violations. A violation that occurs only intermittently (*e.g.*, surfacing sewage from a drain field) may be deemed a continuing violation if

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

the violation may be attributed to, arises out of or results from the failure or refusal to address an underlying condition (e.g., surfacing sewage from a drain field caused by or resulting from the failure to properly maintain, repair, or decommission an on- site system).

Section 7 – Enforcement, Officers and Designation

- A. Any violation of this ordinance may be prosecuted as a civil infraction, enjoined and/or abated as provided by any applicable ordinance of this County, including the Baker County Nuisance Ordinance, the Baker County Zoning Ordinance, and the Baker County Civil Enforcement Ordinance No. 2025-04 (adopted May 21, 2025) as supplemented by authority, procedures and enforcement mechanisms in this Ordinance.

- B. Baker County delegates to Harney County Public Health Administrator the authority to designate from time-to-time specific employees of the Harney County Department of Environmental Health as On-Site Specialists authorized to administer and enforce this ordinance. The employees so designated shall be deemed to be “enforcement officers” within the meaning of ORS 153.008 to 153.145, and the Baker County Civil Enforcement Ordinance. Additionally, the Harney County Court and Baker County Board of Commissioners may appoint county officials in their respective counties to enforce this ordinance and prosecute any violations thereof. All such appointed county officials shall also be deemed “enforcement officers” within the meaning of ORS 153.008 to 153.145, and the Baker County Civil Enforcement Ordinance.

- C. The designation of a Harney County Department of Environmental Health On-Site Specialist as an enforcement officer pursuant to subsection B shall be continuous until either such designation is revoked by the Harney County Public Health Administrator or upon separation from employment or termination of the 2025 IGA between Harney County, Baker County and DEQ. Nothing in this ordinance shall be construed as preventing Harney or Baker County from implementing changes to their respective enforcement officers and/or procedures identified or referenced herein.

Section 8 – Enforcement Mechanisms and Authorized Enforcement Venues

- A. The enforcement mechanisms available to enforce the requirements of this

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

Ordinance include, but are not limited to the following:

1. Warning Letter with Opportunity to Correct (“WLOC”);
 2. Notice of Violation (“NOV”) with an order to correct
 3. Voluntary Compliance Agreement;
 4. Compliance Order;
 5. Pre-Enforcement Notice (“PEN”);
 6. Citation and prosecution of violation in Circuit Court, Justice Court, or a code enforcement hearings officer through County administrative hearings.
 7. Petition for injunction or an order of abatement;
 8. Nuisance abatement;
 9. Permit revocation.
- B. These enforcement mechanisms are not mutually exclusive, and the sequence of enforcement mechanisms as outlined above is not binding on enforcement officers. Rather, enforcement officers may use any of the enforcement mechanisms alone, in sequence or in combination with other enforcement mechanisms as appropriate and necessary under the circumstances of each enforcement action to achieve compliance with this ordinance.
- C. The venue for any adjudication of violations under this Ordinance, and bodies hereby authorized to enforce and adjudicate alleged violations of this Ordinance, include Circuit Court, Justice Court or Municipal Court, or a Hearings Officer operating under County administrative hearings procedures.

Section 9 – Injunctions and Abatement

- A. Enforcement officers may seek an injunction from the Circuit Court when

BOARD OF COUNTY COMMISSIONERS
OF BAKER COUNTY

1. The violation presents an imminent threat to public life, health, safety, or to the environment.; or
 2. The violation has not been corrected within a reasonable time after the violator was found by the Court or Hearings Officer to be guilty of a violation.
- B. In all cases, the Enforcement Officer may seek from the decision maker a permanent injunction and an abatement order, directing the respondent to cease all further violations.
- C. If the respondent fails to comply within the time period specified in the injunction, the enforcement officer may request that legal counsel for the County initiate civil contempt proceedings against the respondent. Determination as to whether the County will initiate civil contempt proceedings against the respondent shall be evaluated by legal counsel and filed at the discretion of the County and the County's legal counsel.

Section 10 – Emergency

This Ordinance, being necessary for the immediate preservation of the peace, health and safety of the citizens of Baker County, shall take effect immediately upon its adoption.

ADOPTED BY THE BAKER COUNTY BOARD OF COMMISSIONERS
on this 4th day of June, 2025.

Baker County Board of Commissioners

Shane M. Alderson, Chairman

Christina Witham, Commissioner

Michelle Kaseberg, Commissioner