

2
3 FOR

4
5 AN ORDINANCE

6 PROVIDING FOR THE CONTROL AND
7 REMOVAL OF NOXIOUS VEGETATION;
8 DECLARING AN EMERGENCY; **REPEALING**
9 **ORDINANCE NO. 00-417** (NOXIOUS
10 VEGETATION ORDINANCE)
11

12 The City of Keizer ordains as follows:

13 Section 1. DEFINITIONS.

14 (A) As used in this Ordinance, "noxious vegetation" means:

15 (1) On any portion of lots or parcels less than 20,000 square
16 feet in size or within 20 feet of any property line on lots or parcels
17 over 20,000 square feet in size:

18 (a) Weeds or grasses more than 12 inches in height, or
19 poison oak or poison ivy.

20 (b) Cane berry bushes. For the purpose of this Ordinance
21 Cane berry means any plant that bears fruit from a vine
22 that originates from the ground.

23 (c) Any invasive/noxious vegetation competitive with, and
24 destructive to, native vegetation and desired landscape
25 and garden plants but only if such vegetation extends
26 into an adjacent property.

27 (2) Any vegetation that is:

1 (a) A health hazard; due to presence of solid waste, vector,
2 or rodent harborage.

3 (b) A fire hazard; as declared by the local fire district or

4 (c) A traffic hazard because it impairs the view or use of a
5 public street or sidewalk, or otherwise makes use of a
6 public street or sidewalk hazardous.

7 (3) "Noxious Vegetation" does not include vegetation that
8 constitutes an agricultural crop unless the vegetation falls within
9 the meaning of paragraph (A)(2) of this section. Cane berry
10 bushes which are harnessed, or contained, by acceptable
11 agricultural practices will not constitute noxious vegetation.

12 (B) "Person" means a natural person, firm, partnership, association or
13 corporation.

14 (C) "Person in charge of property" means an agent, occupant, lessee,
15 contract purchaser or other person having possession or control of property
16 or the supervision of any construction project.

17 (D) "Person responsible" means the person responsible for abating
18 noxious vegetation and shall include:

19 (1) The owner, and

20 (2) The person in charge of property, as defined in subsection (C).

21 Section 2. NUISANCE DECLARED. The Council hereby finds, declares and

22 determines that the existence of noxious vegetation as defined in Section 1 is a

1 detriment or menace to neighboring property and to the health, safety and welfare of
2 the residents in the vicinity and as such is a public nuisance and shall be abated
3 in the manner provided in this Ordinance.

4 Section 3. WAIVER OF DECLARATION OF NUISANCE. The council hereby
5 authorizes the City Manager or designee to waive the application of this Ordinance
6 to specific property upon application of the person in charge of the property if the
7 City Manager or designee finds at his discretion that:

8 (A) The vegetation located on the lot or parcel of land meets the
9 definition of noxious vegetation but was planted or allowed to grow as part
10 of an intentional plan to encourage wildlife habitation.

11 (B) The noxious vegetation is ornamental in nature and is otherwise
12 unobtrusive to the surrounding properties.

13 Section 4. DUTY OF PERSON RESPONSIBLE. No person responsible
14 shall allow noxious vegetation to be on the property or in the right of way of a
15 public street abutting the property. It shall be the duty of the person
16 responsible to cut down or destroy noxious vegetation as often as needed in
17 order to comply with this Ordinance.

18 Section 5. NOTICE. If the person responsible for the property within
19 the City of Keizer shall fail or neglect to remove the noxious vegetation from that
20 property as required by this Ordinance, the City Manager or his designee shall
21 cause written notice to remove the noxious vegetation within fourteen (14) days to
22 be served upon the person responsible by personal service or by first class

1 regular mail, address change service requested and notice shall be posted on
2 the subject property. Notice shall be mailed to the address listed on the Marion
3 County Tax Assessors record and to the subject property if the property is
4 occupied. The notice shall state that the person responsible for the property shall
5 either request Judicial Review as set forth in Section 6 or remove the noxious
6 vegetation within fourteen (14) days or the City will cause the noxious vegetation
7 to be removed and charge the cost thereof as a lien against the property. The
8 notice may also direct the removal of any junk, rubbish, trash, fallen trees, tree
9 limbs, tree trunks, concrete rubble or other debris existing on the property
10 found necessary to be removed and abated to effectively carry out the
11 provisions of this Ordinance

12 Section 6. JUDICIAL REVIEW. The person responsible to whom a
13 notice has been given or who denies that noxious vegetation exists on the
14 property may file with the Keizer Municipal Court and the City Manager or
15 designee a request for judicial review. The request must be within the time set
16 forth for abating the noxious vegetation. The request need not be in any particular
17 form except that it must:

- 18 (A) Be in writing;
- 19 (B) Identify the place and nature of the alleged violation;
- 20 (C) Specify the name and address of the person seeking judicial
21 review;
- 22 (D) Set forth the reasons why the condition of the subject property

1 does not constitute a violation of this Ordinance.

2 If the Responsible Person fails to request judicial review within the time
3 set forth in the Notice to Abate, then such person waives their right to
4 any review or appeal. The Judicial Review shall be conducted as
5 provided in the Keizer Uniform Nuisance Abatement Procedures
6 Section 7(d). The filing of a request for review shall stay all
7 proceedings for abatement until final disposition of the review.

8 Section 7. ABATEMENT BY CITY. If any person responsible shall fail or
9 neglect to cut and remove or destroy the noxious vegetation within fourteen
10 (14) days after the notice provided for in this Ordinance, the City Manager or
11 designee may go upon such lots or parcels with such assistance as he may
12 deem necessary, cut and remove or destroy such noxious vegetation in such
13 manner as shall be most effective in his judgment. The cost for abatement will
14 be actual costs plus 10 percent for administrative fees. If abatement involves
15 cane berry bushes, the most effective removal method for the purposes of this
16 section will be complete eradication, including using an appropriate method
17 designed to prevent reoccurrence. Removal of noxious vegetation within
18 delineated wetlands and riparian areas of rivers and creeks shall comply with
19 the requirements within Ordinance 2009-585 (Establishing Stormwater
20 Discharge Control Regulations).

21 Section 8. FINE ALTERNATIVE TO ABATEMENT.

22 (A) The City will have the option to issue an infraction for this violation

1 pursuant to the Civil Infraction Procedure ORD 86-063.

2 (B) The minimum fine amount for a first offense will be \$100 per day.

3 (C) Penalty for repeat violations: If the respondent is found in violation of
4 a second and similar violation within 24-months of the initial violation,
5 the fine amount may be increased.

6 Section 9. BILLING AND LIEN PROCEDURES.

7 (A) Following completion of abatement by the City, the City Manager or
8 designee, by certified mail, postage prepaid, return receipt requested, shall
9 forward to the Responsible Person a statement of costs which includes:

10 (1) The total cost of abatement, including administrative
11 overhead.

12 (2) A statement that the costs as indicated will be assessed
13 against the subject property unless paid within ten (10) days
14 from the date of the statement.

15 (B) After the expiration of ten (10) days after the date of the statement, the
16 City Council, in the regular course of business, shall hold a public
17 hearing to hear those statements exceeding \$1,000.00. Following the
18 hearing, the Council may, by Ordinance, determine that correctness of
19 such statement and declare the same to be a lien upon the subject
20 property. The correctness of all others is to be determined by the City
21 Manager and declare the same to be a lien upon the subject property.

22 Each lien placed upon the subject property in this manner is to be entered

1 in the lien docket and enforced against the property, in the same manner
2 provided for the enforcement of liens for street improvement.

3 (C) An error in the name of the Responsible Person shall not void the
4 assessment, nor will a failure to receive the notice of the proposed
5 assessment render the assessment void, but it shall remain a valid lien
6 against the property.

7 (D) The lien shall bear interest at the rate of nine percent (9%) per annum.
8 The interest shall commence to run from the date of entry of the lien in the
9 lien docket.

10 Section 10. REPEAL. Ordinance number 00-417, (Providing for
11 the Control and Removal of Noxious Vegetation) is hereby repealed but
12 such Ordinance shall remain in force for the purpose of authorizing the citation,
13 prosecution, conviction and judgment of a person who violated that Ordinance, or
14 for the purposes of abating a nuisance that occurred when such Ordinance was in
15 effect.

16 Section 11. SAVINGS CLAUSE. Should any section or portion of this
17 Ordinance be held unlawful and unenforceable by any court of competent
18 jurisdiction, such decision shall apply only to the specific section, or portion
19 thereof, directly specified in the decision. All other sections or portions of this
20 Ordinance shall remain in full force and effect.

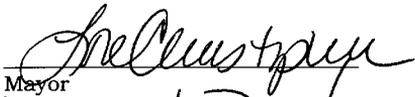
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1 Section 12. EFFECTIVE DATE. This Ordinance being necessary for the
2 immediate preservation of the public welfare, an emergency is declared and found to exist,
3 and this Ordinance takes effect immediately.

4 PASSED this 1st day of June, 2009.

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6 SIGNED this 1st day of June, 2009.

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9 
10 Mayor
11 
12 City Recorder
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