BILL NO. 314

A BILL

ORDINANCE NO. 95-332

FOR

AN ORDINANCE

REGULATING THE MAINTENANCE, PLANTING
AND REMOVAL OF CERTAIN TREES
(TREE PRESERVATION ORDINANCE)

The City of Keizer ordains as follows:

Section 1. PURPOSE. The purpose of this ordinance is to regulate the
planting, maintenance, and removal of trees abutting and in public right-of-ways
or municipally owned property, the regulation of trees in parks, and to set forth
a process to designate and protect certain trees as "Heritage Trees."

Section 2. TREES IN THE PUBLIC RIGHT-OF-WAY.

a. Maintenance and Protection of Trees. Trees located in the public
right-of-way, including parking strips between streets and sidewalks, shall
be maintained by the immediately abutting property owner ("owner") and
shall not be cut down, removed, topped, or transplanted without first
obtaining a permit from the City of Keizer. "Topping" is defined as the
severe cutting back of trunk and/or limbs to stubs within the tree’s crown
to such a degree so as to remove the normal canopy and disfigure the
tree. It shall be unlawful to intentionally damage, deface or attach any
rope, wire, nail, sign, poster, or any other manmade object to any tree
located in the public right-of-way.
b. Removal of Trees. Removal of trees located near or within the public right-of-way is the responsibility of the owner and is required in the following circumstances:

   i. When there is damage occurring to the surrounding lawn, street, sidewalk, and/or curb.

   ii. When a tree is damaged or sick or creating imminent danger to persons or property.

   iii. When a tree is infected by or harbors any injurious fungus, insect or disease which constitutes a potential threat to other trees within the city.

   iv. When a tree by reason of its nature is or may become injurious to sewers, electric power lines, gas lines, water lines, or public improvements of any type.

   v. Stumps of trees in the public right-of-way may remain if they do not interfere with the integrity of saved trees, so long as said stumps shall be removed to a depth of eight inches below the level of the sidewalk, or if no sidewalk exists, eight inches below the grade of the center line of the right-of-way. Stumps shall be cut at ground level if removal of the stump or the cutting of the stump below the surface shall have a harmful effect on any saved tree or trees.

c. Interference with Street Lighting and Traffic Devices. Every owner of any tree located in or overhanging any street or public right-
of-way within the City of Keizer shall prune all branches so that such branches shall not:

i. Obstruct the view of any public or private intersection pursuant to Keizer Zoning Ordinance Section 17.18.

ii. Obstruct the view of any traffic control device or sign.

iii. Severely obstruct the light from any streetlight.

iv. Protrude into the area thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface.

d. **Nuisance Declared.** The City of Keizer hereby declares that all trees described in subsections (b) and (c) above are deemed to be nuisances and are subject to abatement.

e. **Trees Exempted.** Trees on or adjacent to public right-of-ways or which are severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Keizer Public Works Department. Tree limbs that grow near high voltage electrical wires and equipment shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements.

f. **Planting Trees in Public Right-of-Way.** Any tree removed from the public right-of-way must be replaced with a new tree. It shall be unlawful to plant any tree in the public right-of-way without first obtaining written permission from the City of Keizer. Applications for
removal/planting of trees shall be combined into one form. No fee shall be charged for the permitting process. The trees listed below may be approved for planting in the right-of-way:

**TREES**

<table>
<thead>
<tr>
<th>Latin Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acer compestre</td>
<td>Hedge Maple</td>
</tr>
<tr>
<td>Acer grandidentatum</td>
<td>Rocky Mountain Glow Maple</td>
</tr>
<tr>
<td>Acer platanoides &amp; var.</td>
<td>Norway Maple &amp; Var.</td>
</tr>
<tr>
<td>Acer pseudoplatanus</td>
<td>Sycamore Maple</td>
</tr>
<tr>
<td>Acer rubrum &amp; var.</td>
<td>Red Maple &amp; Var.</td>
</tr>
<tr>
<td>Acer saccharum &amp; var.</td>
<td>Sugar Maple &amp; Var.</td>
</tr>
<tr>
<td>Betula jacquemontii</td>
<td>Jacquemontii Birch</td>
</tr>
<tr>
<td>Catalpa bignoniodes 'aurea'</td>
<td>Golden Catalpa</td>
</tr>
<tr>
<td>Carpinus betulus 'fastigiata'</td>
<td>Columnar Hornbeam</td>
</tr>
<tr>
<td>Fagus sylvatica &amp; var.</td>
<td>Beech &amp; Var.</td>
</tr>
<tr>
<td>Fraxinus americana &amp; var.</td>
<td>White Ash &amp; Var.</td>
</tr>
<tr>
<td>Fraxinus oxycarpa 'raywood'</td>
<td>Raywood Ash</td>
</tr>
<tr>
<td>Fraxinus pannsylvanica &amp; var.</td>
<td>Green Ash &amp; Var.</td>
</tr>
<tr>
<td>Gleditsia triacanthos &amp; var.</td>
<td>Thornless Honey Locust &amp; Var.</td>
</tr>
<tr>
<td>Liquidambar styraciflua 'maraine'</td>
<td>Moraine Sweetgum</td>
</tr>
<tr>
<td>liriodendron tulipifera fastigiatum</td>
<td>Arnold Tuliptree</td>
</tr>
<tr>
<td>Platanus acerfolia &amp; var.</td>
<td>London Plane Tree &amp; Var.</td>
</tr>
<tr>
<td>Magnolia kobus</td>
<td>Kobus Magnolia</td>
</tr>
<tr>
<td>Prunus sargentii &amp; Columnaris</td>
<td>Sargent Cherry</td>
</tr>
<tr>
<td>Prunus serrulata 'Kwanzan'</td>
<td>Kwanzan Cherry</td>
</tr>
<tr>
<td>Pyrus calleryana &amp; var.</td>
<td>Flowering Pear &amp; Var.</td>
</tr>
<tr>
<td>Quercus bicolor</td>
<td>Swamp White Oak</td>
</tr>
<tr>
<td>Quercus coccinea</td>
<td>Scarlet Oak</td>
</tr>
<tr>
<td>Quercus palustris</td>
<td>Pin Oak</td>
</tr>
<tr>
<td>Quercus robur &amp; var.</td>
<td>English Oak &amp; Var.</td>
</tr>
<tr>
<td>Quercus rubra</td>
<td>Red Oak</td>
</tr>
<tr>
<td>Quercus shumardii</td>
<td>Shumard Oak</td>
</tr>
<tr>
<td>Tilia cordata 'salem'</td>
<td>Salem Linden</td>
</tr>
<tr>
<td>Ulmus parvifolia</td>
<td>Chinese Elm</td>
</tr>
<tr>
<td>Zelkova serrata 'green vase'</td>
<td>Green Vase Zelkova</td>
</tr>
</tbody>
</table>

Another variety of tree may be acceptable if approved by the City.
g. Heritage Trees in the public right-of-way shall be regulated pursuant to Section 4 of this Ordinance. This Section 2 (Trees in the Public Right-of-Way) is not applicable to Heritage Trees.

Section 3. TREES LOCATED IN CITY PARKS OR ON MUNICIPALLY OWNED PROPERTY.

a. Removal, Planting and Pruning of Trees. No person, other than an employee of the City of Keizer acting at the direction of the Parks Superintendent, or persons authorized by the City of Keizer, shall plant, prune, otherwise cut, remove, or transplant any tree in any city park or on any municipally owned property. The City of Keizer retains the right to take any action it deems prudent with regard to any tree located in a city park or on municipally-owned property.

b. Damaging Trees Unlawful. It shall be unlawful to intentionally damage, deface, or attach any rope, wire, nail, sign, poster, or any other manmade object to any tree located in a city park.

Section 4. HERITAGE TREES.

a. Designated Heritage Trees. Heritage Trees are those trees designated by the City Council as such due to their location, size or age of their species, botanical interest, commemorative plantings, or historical significance. The trees may be designated by the City Council through nominations from the general public.

b. Nomination for Designation. The nominations shall include the following information:
i. Type of tree.

ii. Size of tree.

iii. General location of tree.

iv. Reason for nomination of tree.

v. Written permission for the designation from the property owner where the tree is located.

City staff will review all nominations and send recommendations to the City Council.

c. Certificate of Designation. If a nominated tree is designated by the City Council as a Heritage Tree, the property owner will receive a certificate evidencing the designation. No fee shall be charged for the nomination/designation process.

d. Recorded Notice. After a tree has been officially designated as a Heritage Tree, the City shall cause the designation to be filed with the Marion County Recorder and made a part of the title record of the real property on which the tree is located in order to apprise future purchasers of the designation and accompanying restrictions.

e. Damage to Heritage Trees Unlawful. It shall be unlawful to cut down, prune or top a tree designated as a Heritage Tree without first obtaining written permission from the City of Keizer. It shall also be unlawful to intentionally damage, deface, or attach any rope, wire, nail, sign, poster, or any other manmade object to any Heritage Tree.

f. In the event the City desires to cut down, prune, or top a tree
which has been designated as a Heritage Tree, and which is located in the
designated right-of-way, the City shall provide the immediate property owner
with at least thirty (30) days prior written notice of its intent to do so.
The property owner shall then have the right to appeal the City’s decision
to the City Council. If a Heritage Tree is located in the public right-of-
way and poses an imminent danger to persons or property, the City shall
have the right to cause or order the removal of said tree, or any part
thereof, without first providing the immediate property owner with written
notice and the property owner shall have no right to appeal.

Section 5. REMEDIES. Violations of this Code are infractions, and the
responsible parties may be cited under the Keizer Civil Infraction Ordinance.
The Keizer Municipal Court may fine an individual who is found to have violated
this ordinance a fine not to exceed a maximum of $500.00 per separate offense,
which shall include, but is not limited to, each tree removed or damaged in
violation of this Ordinance. In addition, the nuisance may be abated under
Keizer Nuisance Abatement Procedures, Ordinance No. 94-282. Pursuant to
such ordinance, the costs of nuisance abatement, including, but not limited to, the
costs of replacing trees shall be charged to the violator in addition to any fine
imposed. These procedures and/or remedies shall not prohibit in any way any
alternative remedies set out in city ordinances or state statutes intended to
alleviate ordinance violations. The remedies set forth herein are not exclusive,
but are in addition to any and all common law remedies for the abatement of
nuisances.
Section 6. **EMERGENCY.** This Ordinance being necessary for the immediate preservation of the public health, safety, and welfare, an emergency is declared to exist and this Ordinance shall take effect immediately upon its passage.

PASSED this __ day of August, 1995.

SIGNED this __ day of August, 1995.

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Mayor

__
City Recorder