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3 FOR

4 AN ORDINANCE

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

8 The City of Keizer ordains as follows:

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

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

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

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1 b. Removal of Trees. Removal of trees located near or within the
2 public right-of-way is the responsibility of the owner and is required in
3 the following circumstances:

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

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

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

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

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

22 c. Interference with Street Lighting and Traffic Devices. Every
23 owner of any tree located in or overhanging any street or public right-

1 of-way within the City of Keizer shall prune all branches so that such
2 branches shall not:

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

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

6 iii. Severely obstruct the light from any streetlight.

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

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

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

20 f. Planting Trees in Public Right-of-Way. Any tree removed from
21 the public right-of-way must be replaced with a new tree. It shall be
22 unlawful to plant any tree in the public right-of-way without first obtaining
23 written permission from the City of Keizer. Applications for

1 removal/planting of trees shall be combined into one form. No fee shall
2 be charged for the permitting process. The trees listed below may be
3 approved for planting in the right-of-way:

4 TREES

5	<u>Latin Name</u>	<u>Common Name</u>
6	Acer compestre	Hedge Maple
7	Acer grandidentatum	Rocky Mountain Glow Maple
8	Acer platanoides & var.	Norway Maple & Var.
9	Acer pseudoplatanus	Sycamore Maple
10	Acer rubrum & var.	Red Maple & Var.
11	Acer saccharum & var.	Sugar Maple & Var.
12	Betula jacquemontii	Jacquemontii Birch
13	Catalpa bignoniodes 'aurea'	Goldon Catalpa
14	Carpinus betulus 'fastigiata'	Columnar Hornbeam
15	Fagus sylvatica & var.	Beech & Var.
16	Fraxinus americana & var.	White Ash & Var.
17	Fraxinus oxycarpa 'raywood'	Raywood Ash
18	Fraxinus pannsylvanica & var.	Green Ash & Var.
19	Gleditsia triacanthos & var.	Thornless Honey Locust & Var.
20	Liquidambar styraciflua 'maraine'	Moraine Sweetgum
21	liriodendron tulipifera fastigiatum	Arnold Tuliptree
22	Platanus acerfolia & var.	London Plane Tree & Var.
23	Magnolia kobus	Kobus Magnolia
24	Prunus sargentii & Columnaris	Sargent Cherry
25	Prunus serrulata 'Kwanzan'	Kwanzan Cherry
26	Pyrus calleryana & var.	Flowering Pear & Var.
27	Quercus bicolor	Swamp White Oak
28	Quercus coccinea	Scarlet Oak
29	Quercus palustris	Pin Oak
30	Quercus robur & var.	English Oak & Var.
31	Quercus rubra	Red Oak
32	Quercus shumardii	Shumard Oak
33	Tilia cordata 'salem'	Salem Linden
34	Ulmus parvifolia	Chinese Elm
35	Zelkova serrata 'green vase'	Green Vase Zelkova

36 Another variety of tree may be acceptable if approved by the City.

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1 g. Heritage Trees in the public right-of-way shall be regulated
2 pursuant to Section 4 of this Ordinance. This Section 2 (Trees in the
3 Public Right-of-Way) is not applicable to Heritage Trees.

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

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

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

16 Section 4. HERITAGE TREES.

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

22 b. Nomination for Designation. The nominations shall include the
23 following information:

- 1 i. Type of tree.
- 2 ii. Size of tree.
- 3 iii. General location of tree.
- 4 iv. Reason for nomination of tree.
- 5 v. Written permission for the designation from the property
- 6 owner where the tree is located.

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

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

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

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

23 f. In the event the City desires to cut down, prune, or top a tree

1 which has been designated as a Heritage Tree, and which is located in the
2 public right-of-way, the City shall provide the immediate property owner
3 with at least thirty (30) days prior written notice of its intent to do so.
4 The property owner shall then have the right to appeal the City's decision
5 to the City Council. If a Heritage Tree is located in the public right-of-
6 way and poses an imminent danger to persons or property, the City shall
7 have the right to cause or order the removal of said tree, or any part
8 thereof, without first providing the immediate property owner with written
9 notice and the property owner shall have no right to appeal.

10 Section 5. REMEDIES. Violations of this Code are infractions, and the
11 responsible parties may be cited under the Keizer Civil Infraction Ordinance.
12 The Keizer Municipal Court may fine an individual who is found to have violated
13 this ordinance a fine not to exceed a maximum of \$500.00 per separate offense,
14 which shall include, but is not limited to, each tree removed or damaged in
15 violation of this Ordinance. In addition, the nuisance may be abated under
16 Keizer Nuisance Abatement Procedures, Ordinance No. 94-282. Pursuant to
17 such ordinance, the costs of nuisance abatement, including, but not limited to, the
18 costs of replacing trees shall be charged to the violator in addition to any fine
19 imposed. These procedures and/or remedies shall not prohibit in any way any
20 alternative remedies set out in city ordinances or state statutes intended to
21 alleviate ordinance violations. The remedies set forth herein are not exclusive,
22 but are in addition to any and all common law remedies for the abatement of
23 nuisances.

1 Section 6. EMERGENCY. This Ordinance being necessary for the
2 immediate preservation of the public health, safety, and welfare, an emergency
3 is declared to exist and this Ordinance shall take effect immediately upon its
4 passage.

5 PASSED this 7 day of August, 1995.

6 SIGNED this 7 day of August, 1995.

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8 Dennis Kelen
Mayor

9
10 Wanda Davis
City Recorder

11 4152COK2.005