

ORDINANCE NO. 2917**AN ORDINANCE REGULATING PLANTING, MAINTENANCE, PROTECTION, CONTROL AND REMOVAL OF TREES IN PUBLIC PLACES; PROVIDING PENALTIES AND DECLARING AN EMERGENCY.**

BE IT ORDAINED BY THE CITY OF BAKER, OREGON:

Section 1: Definitions.

Street Trees: Street trees are hereby defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

Park Trees: Park trees are hereby defined as trees, shrubs, bushes and all other woody vegetation in public parks or areas to which the public has free access, such as cemetery and City Hall.

Section 2. Creation and Establishment of a City Tree Board.

There is hereby created and established a City Tree Board for the City of Baker City which shall consist of five (5) members who shall be appointed by the City Council. (Amended by Ordinance No. 3139, 9-22-98)

Section 3: Term of Office.

The term of the five persons to be appointed by the Council shall be three (3) years except the term of two (2) of the members appointed to the first board shall be for only one year, and the term of two (2) members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 4: Compensation.

Members of the board shall serve without compensation.

Section 5: Duties and Responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop and/or up-date annually, and prepare a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. If changes to the plan are approved by the board, such changes shall be submitted to the City Council and, upon acceptance and approval, shall become effective. The board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

In addition, the board shall, after hearing, issue or deny such permits as may be called for in this ordinance.

Section 6: Operation.

The board shall choose its own officers, make its rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 7: Street Tree Species to be Planted.

The list of tree species set forth herein on the attached tree guide constitutes the official street tree species for Baker, Oregon. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board.

Section 8: Permission to Plant trees.

No trees, shrubs, bushes, or other woody vegetation shall hereafter be planted in or removed from any public parking strip or other public place in the city without first securing a permit therefore from the City Manager or his designee. Such permit shall be issued if the requested planting conforms to the guidelines set forth in this ordinance and the accompanying tree guide, however, the City Tree Board may make more specific recommendations for species to be planted in certain areas of the city. Any person wishing to plant a tree, shrub, bush or other woody vegetation in a public parking strip or other public place which does not conform to the requirements of the ordinance or the attached tree guide may request a variance from said regulations from the city tree board. Upon receiving a request for such variance, the board shall meet within ten (10) days from

the date thereof and issue or deny the variance. The City Manager or his duly authorized representative shall be charged with the enforcement of this ordinance. If a tree or other woody vegetation should be unlawfully removed from a public parking strip or other public place, the City Manager, with the advice of the board, may order such tree or woody vegetation replaced by a suitable plant. Failure to comply with such order within a reasonable time shall be deemed a separate violation of this ordinance. Note that permission to plant on the State Highway within the city limits must be obtained from the State. (These areas are as follows: North of 'H' Street on 10th Street, Highway #7, and Elm Street south of Indiana Avenue).

Section 9: Spacing.

The spacing of the street trees will be in accordance with the four species size classes listed in the tree guide referred to in Section 7 of this ordinance, and no trees may be planted closer together than the following:

<u>Class I & II</u>	<u>Class III</u>	<u>Class IV</u>
25 feet	35 feet	40 feet

Exceptions may be made for special planting subject to approval by the City Tree Board.

Section 10. Distance from Curb to Sidewalk.

The distance trees may be planted, either within the street right-of-way or on private property, from curbs, curb lines, sidewalks, or proposed sidewalks and curb lines will be in accordance with the four species size classes listed in the tree guide referred to in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following:

<u>Class I</u>	<u>Class II</u>	<u>Class III</u>	<u>Class IV</u>
3 feet	4 feet	6 feet	8 feet

Exceptions for less distance may be approved by the City Tree Board, but exceptions of less than 2 feet may not be made.

Section 11: Distance from Street Corners and Fire Plugs.

Except in the City Center Zone, no street tree shall be planted closer than 25 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines. No street trees shall be planted closer than 10 feet to any fire hydrant. Street tree plantings in the City Center zone shall be approved individually by the tree board after due

consideration has been given to overall planning, sight-lines, pedestrian and automobile travel.

Section 12: Utilities.

No trees on the street right-of-way may be planted over or within seven (7) lateral feet of any underground waterline, sewer line, power transmission line or other utility. The City Tree Board shall have the power to grant exceptions to this prohibition on a case-by-case basis for Class I trees only. In addition, no tree in the street right-of-way may be planted under or closer to any overhead utility wire (except property service lines) than the following:

<u>Class II</u>	<u>Class III</u>	<u>Class IV</u>
15 feet	25 feet	40 feet

Section 13: Public Tree Care.

The City shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, square, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines, or other public improvements, or is infected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with Sections 7 - 12 of this ordinance.

Section 14: Tree Topping.

It shall be unlawful as a normal practice for any person, firm or City department to top any street tree, park tree or other tree on public property. Topping is defined as a severe cutting back of limbs to stubs larger than three inches in diameter within the crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires are exempt from this provision of this ordinance. Certain trees under other obstructions or where other pruning practices are impractical, may be exempted from this provision of this ordinance at the determination of the City Tree Board.

Section 15: Pruning, Corner Clearance.

(a) Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or traffic control device, so that there shall be clear space of eight feet above the surface of the street or sidewalk.

Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or when it interferes with visibility of any traffic control device or sign. Failure of the property owner to comply with the order of the City Tree Board after thirty (30) days notice shall be deemed in violation of this ordinance, and the City may then remove or trim such tree or shrub at an assessed cost against the property.

(b) The owner of any premises within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the owner's failure to remove or trim such tree or shrub as set forth in Subparagraph (a) herein. Furthermore, said owner shall be liable to the City of Baker City for any judgement or expense incurred or paid by the City by reason of said owner's failure to satisfy any obligation imposed by this ordinance.

(c) No recourse shall be had against the City for damage or loss to persons or property suffered or sustained by reason of a failure to trim trees or shrubs as required by any provision of this ordinance. (As amended by Ord. No. 3008, 1-8-91).

Section 16: Dead or Diseased Tree Removal on Private Property.

City shall have the right to cause the removal or remedial treatment, if appropriate, of dead or diseased trees on private property within the city when such trees constitute a hazard to the public, or harbor insects or disease which constitutes a potential threat to other trees within the city. The City Tree Board will notify the owner of such trees in writing and will order such removal or remedial treatment. Failure of the property owner to comply with the order of the City Tree Board after thirty (30) days notice shall be deemed a violation of this ordinance, and the City may then remove, trim or cause remedial treatment of such trees or shrubs at an assessed cost against the property.

Section 17: Removal of Tree Stumps.

All stumps of street and park trees shall be removed by the owner to the surface of the ground so that the top of the stump shall not project above said surface.

Section 18: Interference with City Tree Board.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, or trees on private grounds authorized in this ordinance.

Section 19: Arborist's Permit.

It shall be unlawful for any persons or firm to engage in the business or occupation of pruning, treating or removing trees within the city without first applying for and procuring a permit. The permit fee shall be \$10.00 annually in advance; provided, however, that no permit shall be required of any public utility company or city employee doing such work in the pursuit of their public utility endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for property damage, \$100,000 for bodily injury and \$300,000 for all claims for one occurrence, indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 20: Abuse or Mutilation of Trees.

It shall be a violation of this ordinance to abuse, destroy or mutilate any tree, shrub, bush, or other woody vegetation in a public parking strip or any other public place.

Section 21: Review by City Council.

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may then hear the matter and make the final decision.

Section 22: Validity.

If any section of this ordinance is declared invalid by any court of competent jurisdiction, such decision shall be deemed to apply to that section only and shall not affect the validity of the ordinance as a whole or any part hereof other than the part declared invalid.

Section 23: Penalty.

Any person violating any provision of this ordinance shall be, upon conviction or plea of guilty, subject to a fine not to exceed \$500.00.

Section 24: Emergency Clause.

It is hereby determined and found that it is in the best interest and welfare of the people of the City of Baker, Oregon, that new regulations relating to planting and trimming trees be established. By virtue of the foregoing reason, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon and after its passage by the City Council and approval by the Mayor of the City of Baker, Oregon.

As adopted by the City Council of the City of Baker May 14, 1985.