A BILL

FOR

AN ORDINANCE

IMPOSING A PARKS SERVICES FEE

WHEREAS, the City of Keizer has a Parks Division under the Public Works Department dedicated to maintaining and improving the public parks throughout the City;

WHEREAS, the City Council has determined that the current level of funding is below the need to sustain the parks maintenance, operations and improvements;

WHEREAS, the City Council has determined that to fill gaps in service and to improve and sustain the public parks throughout the City, there is a need for additional resources;

WHEREAS, public parks are available for every developed property in the City;

WHEREAS, the City has the authority to impose fees;

WHEREAS, the City Council held a public hearing to solicit comment and testimony regarding the proposed fee on July 17, 2017;

WHEREAS, the City Council finds it in the best interest of the community to impose a parks services fee;

NOW THEREFORE, the City of Keizer ordains as follows:
Section 1. PURPOSE OF PARKS SERVICES FEE. The purpose of the parks services fee is to provide funding for park services. Park services safeguard, facilitate, and encourage the health, safety, and welfare of the residents and enterprises of the City of Keizer. Stable and reliable park services provide a multitude of economic and social benefits to the public, including, but not limited to:

A. Promotion of business and industry;

B. Promotion of community health, community spirit and growth.

The Keizer City Council finds and determines the necessity of this parks services fee to provide a funding mechanism to help pay for the benefits of park services and to provide an acceptable level of service.

Section 2. DEFINITIONS. For purposes of this Ordinance, the following mean:

A. Non-Residential Unit. A Premise or a portion of a Premise not used for personal, domestic accommodation in independent living facilities. A Non-Residential Unit includes, but is not limited to, governmental, not-for-profit, business, commercial and industrial enterprises. Each portion of a Non-Residential Unit that has permanent provisions for distinct and defined access to an individual enterprise shall be considered as a separate Non-Residential Unit. Enterprises that provide senior living, assisted living, nursing care and similar services exclusively shall be considered non-residential.
B. **Premise.** A parcel or portion of a parcel of land within the corporate limits of the City of Keizer that receives a direct or indirect benefit from park services. It is presumed that a Premise receives a direct or indirect benefit from park services if the Premise is developed. A Premise is presumed to be developed if served by water, stormwater, wastewater utility, or has improvements, including, but not limited to buildings, parking lots or outdoor storage.

C. **Residential Unit.** A Premise or a portion of a Premise with one or more rooms in a building or portion thereof designed for or that provides complete independent living facilities for one or more persons and includes permanent provisions for sleeping, cooking and sanitation. An accessory or ancillary residential unit on a Premise shall be considered as a separate residential unit. In Premises with two or more apartments, condominiums, mobile homes, or other residential units, each residential unit shall be considered as a separate residential unit for purposes of calculating the parks services fee. Premises or portions of Premises primarily used for transient lodging whose occupants are subject to Ordinance 98-382 (Transient Occupancy Tax) shall not be considered a residential unit.

Section 3. **ESTABLISHMENT OF PARKS SERVICES FEE.**

A. Except as exempted below, beginning with the November 2017 utility bills, a parks services fee is established and imposed upon all Premises within the Keizer City limits.
B. Premises owned by the City of Keizer and Keizer Urban Renewal Agency that are property-tax exempt are exempt from the payment of any parks services fee.

C. The parks services fee for each utility account shall be based on a monthly amount applied to the number of Residential Units and Non-Residential Units allocated to that utility account.

D. Residential Units and Non-Residential Units that are the basis for calculating the parks services fee do not in any way create an obligation of the property or Premises and the obligation to pay the parks services fee is a personal obligation of the customer responsible for payment of the City utility account. No lien will attach to any Premise because of the nonpayment of the parks services fee.

E. All developed property receives a direct or indirect benefit from park services. Unless specifically exempted, the parks services fee applies to all City of Keizer utility accounts, including those that serve local, state and federal governments, and to utility accounts that serve Premises that are entitled to an exemption from or deferral of ad valorem property taxes, as well as Premises not connected to utility services.

F. The parks services fee described herein is not subject to the property tax limitations of Article IX, Sections 11b and 11(19) of the Oregon Constitution and is not a fee imposed on property or property owners by fact of ownership.
Section 4. AMOUNT OF PARKS SERVICES FEE. The amount of the parks services fee shall be set by Keizer Council Resolution. However, the amount shall not exceed $8.00 per month per unit. In addition, the Council may set by Resolution fees for extra services required in collecting delinquent customer accounts for the parks services fee.

Section 5. DEDICATED FUNDS.

A. There shall be a Parks Services Fund. All parks services fee revenues imposed and collected under this Ordinance shall be deposited in the Parks Services Fund.

B. Money in the Parks Services Fund shall be used for the purposes of City park maintenance, operation and improvements as determined each year during the budget process. The parks services fee shall not be used for any other governmental or proprietary functions of the City. Any revenues in excess of actual expenses as identified in the budget process shall be carried forward to next year’s budget.

C. The Parks Services Fund revenues shall be in addition to the Parks General Support Resources funding minimum of 2.5% of General Fund budgeted revenues and shall not supplant the general fund allocation for parks according to budget policy.

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Section 6. BILLING.

A. The customer(s) responsible for paying the City utility account is responsible for payment of the parks services fee. For non-utility Premises, the property owner as set forth in the Marion County tax records shall be the responsible party.

B. The City shall collect the parks services fee by adding the parks service fee to the utility bill of each customer in the City of Keizer. For non-utility accounts, the billing shall be mailed to the property owner’s address as set forth in the County property records, unless such owner requests the billing be sent to a different address.

C. If a Premise has more than one utility account, the parks services fee for the Premises shall be calculated based on the total number of Residential Units and Non-Residential Units on the Premise. The Residential Units and Non-Residential Units may be combined into one account or allocated to each account.

D. Charges for water, wastewater, stormwater, police services fee and the parks services fee may be billed on the same utility bill. If full payment of utility billing is not made, payment shall be applied in the following order:

i. Sewer and Sewer Franchise Fee;

ii. Sewer Administration and Sewer Administration Franchise Fee;

iii. Water and Water Franchise Fee;

iv. Stormwater and Stormwater Franchise Fee;

v. Police Services Fee;
vi. Parks Services Fee.

Section 7. PAYMENT DUE DATE. The parks services fee shall be due the same date as the utility bill. For non-utility accounts, the due date shall be the 22nd of the month the bill is received.

Section 8. ADJUSTMENT OF ACCOUNTS.

A. Customers who believe their parks services fee, as applied to their Premise, is not within the intent of this Ordinance may request, in writing, a review of their parks services fee by the Finance Director. The Finance Director may initiate a review of a customer's parks services fee.

   i) If a customer's charge is reduced as a result of this review, the corrected parks services fee shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

   ii) If a customer's charge is increased as a result of this review, the corrected parks services fee shall begin with the next billing and the customer may be billed for the increase retroactively, not to exceed one year from the last billing.

B. If an existing customer has not been billed for the parks services fee, the parks services fee shall begin with the next billing and the customer may be billed retroactively, not to exceed one year.

C. Customers not satisfied with the results of the review by the Finance Director may appeal the Finance Director's decision to the Keizer Hearings Officer who
shall determine, by preponderance of the evidence, whether the Finance Director’s
decision should be upheld or reversed, or upheld in part and reversed in part. A Notice
of Appeal must be in writing and physically delivered to the Finance Director no later
than fourteen (14) calendar days from the date of the Finance Director’s decision. The
hearing before the Keizer Hearings Officer shall be conducted no later than twenty (20)
days from the date of the appeal, unless a different date is stipulated by the City and the
customer, or good cause is shown for setting the matter forward. Testimony at the
hearing shall be taken upon oath or affirmation of the witnesses. The Hearings Officer
shall consider only the matters set forth in the Notice of Appeal. The Findings and
Decision of the Hearings Officer shall be served upon the customer by first class mail
within ten (10) days after the hearing concludes. The Hearings Officer decision shall be
effective ten (10) days following the date of the decision. The Findings and Decision of
the Hearings Officer shall be final and conclusive, subject only to writ of review under
ORS 34.010 to 34.100, which shall be the sole remedy.

D. The Finance Director may write off closed accounts and retroactive bills if
it is in the best interest of the City and may write off refunds, unless the customer
requested otherwise, if the cost of making the refund would exceed the amount of the
refund.

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Section 9. DELINQUENCY.

A. A parks services fee is delinquent if payment in full is not received on or before the due date.

B. If a customer's utility account is delinquent for parks services fee only, the City may not discontinue water services billed on that account. However, the City may refuse to restore water service to the Premise if the delinquent charges and other costs incurred are not paid.

C. Delinquent amounts owing may be collected by all legal means, including, but not limited to the referral or assignment to a collection agency.

Section 10. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this 17th day of July, 2017.

SIGNED this 17th day of July, 2017.

Mayor

City Recorder