City of Birmingham
A Walkable Community

MEMORANDUM

Police Department

DATE: **March 13, 2017**

TO: **Joe Valentine, City Manager**

FROM: **Mark Clemence, Chief of Police**

SUBJECT: **Sec. 74-99 Defrauding of Hotel, Motel, Inn, Restaurant, Café and Boarding House keepers**

It has come to the attention of the police department that vehicles have been observed leaving the parking structures without paying. Vehicles have been attempting to defeat the pay station by driving closely behind a paid vehicle while exiting, before the gate arm closes, and thus exiting without making payment.

This behavior was discussed with the city attorney to address appropriate enforcement action. The city attorney suggested an amendment to Sec. 74-99 as attached to address the defrauding of parking lots and parking structures. The follow subsection is proposed:

> (2) Any person who shall park in any City owned and operated lot or structure or privately owned lot or structure, and exits without paying, therefore, except when credit is given by express agreement, with the intent to defraud the City or owner of said lot, out of the parking costs for the same, is guilty of a misdemeanor.

See attached proposed amendment.

SUGGESTED ACTION:

To amend Part II of the City Code, Chapter 74 Offenses, Article IV. Offenses Against Property, Division 2 – Theft, Section 74-99 – Defrauding of hotel, motel, inn, restaurant, café and boarding house, to include parking lots and parking structures with the addition of subsection (2) and to authorize the Mayor and City Clerk to sign the ordinance on behalf of the city.

CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 74 OFFENSES, ARTICLE IV – OFFENSES AGAINST PROPERTY, DIVISION 2 THEFT, SECTION 74-99 – DEFRAUDING OF HOTEL, MOTEL, INN, RESTAURANT, CAFÉ AND BOARDING HOUSE KEEPERS.

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 74 Offenses, Article IV – Offenses Against Property, Division 2 Theft, Section 74-99 – Defrauding of hotel, motel, inn, restaurant, café and boarding house keepers shall be amended, as follows:

ARTICLE IV – OFFENSES AGAINST PROPERTY

DIVISION 2. – THEFT

Sec. 74-99. - Defrauding of hotel, motel, inn, restaurant, ~~cafe~~café, ~~and~~ boarding house keepers, parking lots and parking structures.

(1) Any person who shall stop, stay, put up, board or lodge at any boarding house, hotel, motel, inn, restaurant or cafe as a guest and shall procure any food, entertainment or accommodation without paying therefore, except when credit is given therefore by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or who intends to defraud such keeper out of the pay for the same, is guilty of a misdemeanor.

(2) Any person who shall park in any City owned and operated lot or structure or privately owned lot or structure, and exits without paying, therefore, except when credit is given by express agreement, with the intent to defraud the City or owner of said lot, out of the parking costs for the same, is guilty of a misdemeanor.

All other Sections of Chapter 74, Offenses, Article VII. Offenses Against Public Morals shall remain unaffected.

Ordained this _____ day of _____, 2017. Effective upon publication.

_____
Mark Nickita, Mayor

_____
Cheryl Arft, Acting City Clerk

I, Cheryl Arft, Acting City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2017 and that a summary was published _____, 2017.

_____
Cheryl Arft, Acting City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

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