

Commission Letter # 18-10
Commission Meeting: 1/25/2010

RE: Parking Station Ordinance Amendment – Second Reading

January 8, 2010

The Honorable Mayor
and
Members of City Commission

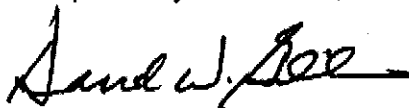
Attached is a proposed amendment to Chapter 503 of the City Code, the Parking Station Ordinance, for the Commission's approval and adoption on second reading.

Section 503-11 of the ordinance currently requires that a licensee "faithfully perform its duties as a bailee". From a legal standpoint, the use of the term "bailee" is appropriate in a situation where a licensee takes full possession of a vehicle (both the vehicle its keys, as with valet parking), but not in a situation where the licensee does not take possession of the vehicle (for example, where the vehicle owner pays a fee at the entrance to a lot, parks and locks the car, and keeps the keys). By law, the duties imposed upon an individual taking possession of a vehicle are greater than those imposed upon one who does not. Accordingly, we would recommend that the term "bailee" be removed from the ordinance.

The proposed amendment was approved on first reading on January 4, 2010. If the Commission chooses to adopt the proposed amendment, the following resolution would be appropriate:

BE IT RESOLVED, that the City Commission hereby approves the 2010 Amendment to the Parking Station Ordinance on second reading.

Respectfully submitted,



David W. Gillam
City Attorney

cc: Donald E. Johnson, City Manager
Melanie Halas, City Clerk

ORDINANCE NO. 2010 - ____

AN ORDINANCE TO AMEND THE ROYAL OAK CITY CODE AT CHAPTER 503, "PARKING STATIONS", SECTION 503-11, "DUTIES OF LICENSEE AS BAILEE", TO CLARIFY THE RELATIONSHIP BETWEEN A LICENSEE AND A CUSTOMER BY DELETING THE TERM "BAILEE"

THE CITY OF ROYAL OAK ORDAINS:

SECTION 1. SHORT TITLE. This Ordinance shall be known as and may be cited as the "2010 Amendment to the Parking Station Ordinance."

SECTION 2. STATEMENT OF PURPOSE. This is an ordinance to amend the City Code at Chapter 503, "Parking Stations", Section 503-11, "Duties of Licensee as Bailee", to clarify the relationship between a licensee and a customer by deleting the term "bailee".

SECTION 3. AMENDMENT AT SECTION 503-11. The Royal Oak City Code, Chapter 503, "Parking Stations", is hereby amended at Section 503-11, "Duties of Licensee as Bailee", which shall now read as follows:

"Section 503-11. Duties of licensee.

In operating a parking station, each licensee shall faithfully perform its duties under this Chapter and shall use its best efforts to employ honest and competent attendants."

SECTION 4. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 6. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.