

**COUNTY OF MUSKEGON**  
**CHECK VIOLATION ORDINANCE**

**THE MUSKEGON COUNTY BOARD OF COMMISSION HEREBY ORDAINS AS FOLLOWS:**

**This Ordinance shall be known and cited as the Muskegon County Check Violation Ordinance.**

**SECTION 1. PURPOSE**

The County of Muskegon finds that a significant number of checks are written and dishonored within its geographical boundaries causing serious financial loss and hardship to citizens and merchants therein. In addition, the County of Muskegon finds that the financial loss and hardship incurred by its citizens and merchants seriously impacts on the stream of commerce and the general public by causing increases in costs of goods and services. As a result of these determinations, a greater operational and financial burden is placed on local law enforcement and legal service by persons who are placing dishonored checks into the stream of commerce.

**SECTION 2. DEFINITIONS**

When used in this ordinance the following terms shall have the following meaning:

- A. "Check" shall mean any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository.
- B. "Dishonored" shall mean:
  - (1) Any check, draft, or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of same when presentation is made to the drawee.
  - (2) Any check, draft, or order drawn or written on any account which has been closed with or by the bank or other depository upon which it is drawn.
  - (3) Any check, draft or order drawn or written on any account for stop payments, any bank administrative purpose or any other reason that caused the check to become dishonored when presentation is made to the drawee. Exceptions include:
    - (a) A check that was stolen and passed.

- (b) A stop payment check where a verified dispute exists between the two parties.
- C. "Expenses of Dishonored Check Response" shall mean the direct and reasonable cost incurred by the County of Muskegon or to a private person or corporation operating at the request and direction of the County of Muskegon, when making a dishonored check response, including the cost of providing police, legal counsel and/or administrative services in response to any dishonored check. These costs further include all of the wages and salaries of the Muskegon County personnel, and/or contractors responding to the incident, all salaries and wages of the personnel and contractors engaged in investigations, supervision and report preparation, and all costs connected with the administration and provision of any prosecution of the person causing their incident.
- D. "Address of Record" shall mean the address that appears on the check or the last known address of record with the Secretary of State at the time the check was presented for payment of goods or services.

### **SECTION 3. CHECKS DRAWN WITHOUT SUFFICIENT FUNDS**

- A. No person shall with intent to defraud make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of the making, drawing or uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository, for the payment of the check, draft, or order in full upon such check, draft or order in any amount.
- B. No person shall with intent to defraud make, draw, utter or deliver any check, draft, or order for the payment of money to apply on account or otherwise, upon any bank or other depository, unless the person has sufficient funds for payment for same when presentment is due to the drawee in any amount, except where the lack of funds is due to garnishment, attachment, levy, or other lawful cause, and such fact was not known to the person who made, drew, uttered, or delivered the instrument at the time of doing so.
- C. As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft, or order payment of such is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all cost and protest fees, within five

(5) business days after receiving notice that such check, draft or order has not been paid by the drawee.

- D. Where such check, draft, or order is protested on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, non-payment and protest, and shall be prima facie evidence of intent to defraud and knowledge of insufficient funds or credit with such bank or other depository.

**SECTION 4. LIABILITY FOR THE EXPENSE OF DISHONORED CHECK RESPONSE**

- A. **Person Responsible:** Any person is liable for the expense of a dishonored check response, if such person, proximately causes any incident resulting in a dishonored check response.

- B. **Presumptions shall mean:**

(1) For the purpose of this ordinance a person is presumed to be the proximate cause of an incident if said person makes, draws, utters, or delivers any dishonored check or causes directly or indirectly a check to become dishonored.

(2) For the purpose of this ordinance a person is presumed to have acted with intent to defraud if said person shall not have paid the drawer thereof the amount due therein, together with all costs and protest fees, including the fees assessed hereunder, within five (5) business days after receiving notice by first class mail to the last known address of record that such check, draft, or order has not been paid by the drawee.

- C. **Charges Against Person:** The expenses of a dishonored check response shall be a charge against the person liable for the expense under this ordinance. The charge constitutes a debt of that person and is collectible by the County of Muskegon for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

- D. **Cost Recovery Schedule:** The Muskegon County Board shall, by resolution, adopt a schedule of costs included within the expense of the dishonored check response. This schedule shall be available to the public from either the Muskegon County Clerk or the Muskegon County Sheriff's Department.

- E. **Billing:** Muskegon County Treasurer, or his or her designee, may submit a bill for the dishonored check response by first class mail to the last known address of record or personal service to the person liable for the expenses as enumerated under this ordinance. The bill(s) shall require full payment

within thirty (30) consecutive days from the date of service. Service by mail shall be effective upon depositing said bill in a United States Postal Service receptacle. In no event shall billing be permitted after one year from the last expense incurred.

- F. Failure to Pay, Procedures to Recover Cost: Any failure by any person described in this ordinance as liable for the expense of a dishonored check response, to pay the bill within thirty (30) consecutive days of service shall be considered in default. In case of default, the County of Muskegon may commence civil suit to recover the expenses and any costs allowed by the law.

#### **SECTION 5. APPLICATION OF ORDINANCE**

This ordinance shall be deemed to have force and effect within the geographic boundaries of Muskegon County served by the Muskegon County Sheriff's Department but shall not be deemed in force and effect within those township or municipalities either routinely served by municipal police departments or governed by a check violation ordinance adopted and in force and effect in such township or municipality.

#### **SECTION 6. PENALTY**

The penalty for a person convicted of the violation of Section 3 shall be a fine of not more than Five Hundred Dollars (\$500) and costs of prosecution and cost recovery or by imprisonment of not more than ninety (90) days, or both such fine and imprisonment in the discretion of the court.

#### **SECTION 7. SEVERABILITY**

The provisions of this ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not effect the enforceability of the remainder of the ordinance.

#### **SECTION 8. EFFECTIVE DATE**

This ordinance shall become effective upon publication of notice of adoption in accordance with and subject to the further provision of Michigan Compiled Laws 46.11.

IN WITNESS WHEREOF, Kenneth Hulka, Chairperson of the Muskegon County Board of Commission, has executed this instrument to be effective on the date of adoption.

Nov. 26, 1996  
Adoption Date

Kenneth J. Hulka  
Kenneth Hulka, Chairperson  
Muskegon County Board of  
Commission

**CLERK CERTIFICATION**

I, Ruth Stevens, Muskegon County Clerk, hereby certify that the foregoing represents the ordinance adopted by the Muskegon County Board of Commissioners on November 26, 1996, and that notice of the adoption of same was published in a newspaper of general circulation on December 19, 1996.

Dec. 19, 1996  
Date

Ruth Stevens  
Ruth Stevens  
Muskegon County Clerk.

December 19, 1996  
Effective Date

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**RESOLUTION ESTABLISHING COSTS RECOVERY FEES  
FOR ENFORCEMENT OF DISHONORED CHECKS**

WHEREAS, in accordance with the County of Muskegon Check Violation Ordinance, provision is made for the Board to establish a cost recovery schedule; and,

WHEREAS, the Muskegon County Sheriff has satisfied the Board, by way of recommendation, as to an appropriate cost for recovery fee schedule;

NOW, THEREFORE, the Board hereby concludes, and resolves that the cost recovery schedule for each dishonored check processed pursuant to, and through such ordinance shall be \$25 per check.

IN WITNESS WHEREOF, the foregoing resolution has been executed by the Chairperson of the County Board and certified by its county clerk.

Nov 26, 1996  
Adoption Date

MUSKEGON COUNTY BOARD OF  
COMMISSION

By: Kenneth J. Hulka  
Kenneth Hulka, Chairperson

**CLERK CERTIFICATION**

I, Ruth Stevens, Muskegon County Clerk, hereby certify that the foregoing represents the resolution adopted by the Muskegon County Board of Commissioners on November 26, 1996, and that notice of the adoption of same was published in a newspaper of general circulation on December 19, 1996.

Dec. 12, 1996  
Date

Ruth Stevens  
Ruth Stevens  
Muskegon County Clerk

December 19, 1996  
Effective Date