



## Police Department

400 Main Street  
Cottage Grove, OR 97424

Phone (541) 942-9145  
Fax (541) 942-4310  
[www.cgpolice.org](http://www.cgpolice.org)

### **BAD CHECK PROCEDURE**

Dear Business Person:

This is an information letter, which tells you the steps needed to successfully prosecute a person who writes a "BAD CHECK" to you. Such cases will be filed with the Cottage Grove Municipal Court, which will provide more local control, and hopefully, a speedier process.

The steps outlined below are necessary to meet the requirements of both State statutes and City ordinances. To ensure prosecutable cases, the Cottage Grove Police Department will not accept cases involving:

- Third party checks,
- Checks drawn on out-of-state banks,
- Post dated and/or "held" checks,
- Checks accepted without identification which is clearly shown on the face of the check,
- Checks previously given to a collection agency,
- Checks in which the outlined procedures have not been followed.

It is also the position of the police department that if you have a sign on your premises that indicates a charge for returned checks, that you are acting inconsistently with treating presenting a bad check as a crime. People charged with writing a bad check, if convicted, face a fine and/or a jail sentence or both. We do not think it is appropriate to imply to people that a bad check will result only in a monetary charge for the bad check. Therefore, if you want the City to prosecute these cases, we are asking that signs, as described above, be removed.

You must follow these procedures in order for us to initiate prosecution:

1. You must present the check to the bank within thirty days.
2. If a check is returned as marked "NSF" (non-sufficient funds), immediately resubmit the check to the bank for payment.
3. If a check is returned marked "Account Closed", or is returned for a second time marked "NSF", you must send a demand letter to the maker of the check at the last known address. This letter must contain the following information:
  - Check number,
  - Date the check was written,
  - The amount of the check,
  - A statement that you expect payment within ten days of receipt of the letter,
  - A statement that if the check is not paid within ten days, that lack of payment will be used in court as a presumption that the person presenting the check knew at the time that it was issued that it would not be honored by the bank

The Cottage Grove Police Department will provide a "fill in the blanks" letter for your use, if you wish.

4. The letter must be sent by certified mail, returned receipt requested. You must keep a copy of the letter. You may attempt to contact the person and obtain payment by other means; however, you must still send the letter. If you attempt to collect the amount of the check by means other than the letter, you must keep notes of each attempt and its result. You are encouraged to work with people to allow them to cover their bad check(s). However, once you make an agreement to allow the person to make the check good, the police department will not thereafter accept the case for prosecution.
5. If the check has not been made good within ten days, after the delivery date of the letter, contact the Cottage Grove Police Department to initiate prosecution. A police officer will then contact you to follow-up on the report. Any contact you have with the person who gave you the bad check after it was presented shall be documented, by you in writing, so that the information can be provided to the police officer. Assuming the person who passes the check pleads not guilty, it will be necessary for the person who accepted the check to appear in court, identify the defendant, recall the exact date the check was issued and confirm that the procedure outlined in this letter was followed.
6. The police officer will complete necessary reports, and will take the evidence the following items:
  - The original check
  - The copy of the letter sent by certified mail,
  - The original certified mail receipt
  - The record of you attempts to contact the person, and to collect the check.

If the certified letter was returned as undeliverable, the officer will need the original letter, envelope, and the receipt showing the attempted service.

Should the person who presented the check contact you after the case has been given to the Cottage Grove Police Department, you should document that contact and contact the police department. You should not make an agreement to accept payment for the check. Once the case has been turned over to the police department, you should refer the person to the police department.

Because of the criminal nature of this charge, the elements of the offense must be proven by the City, beyond a reasonable doubt. Therefore, if we cannot prove that the defendant KNOWINGLY issued a bad check, the prosecution may fail. For that reason, it is imperative that you document any statements made by the person that he or she knew the check was bad when they issued it or had a reasonable plausible excuse for having the check dishonored. If the excuse is reasonable, the City may refuse to accept the case for prosecution and your remedy for recovery would then be a pursue your civil remedies; e.g., small claims court or a collection agency.

If you have any questions regarding this procedure, please feel free to contact us. Please make any contact regarding these situations in a timely manner.

Michael G. Grover  
Chief of Police

DATE: \_\_\_\_\_

Dear

On \_\_\_\_\_ your bank returned a check, with your signature, to us due to "Non-sufficient Funds" and/or "Account Closed".

Check number:

Date of Check:

Amount of check: \$

Please be advised that you must cover the above-described check by reimbursing us in CASH within ten (10) days of the date of this letter. Your failure to cover the check may result in you being charged with THEFT in Cottage Grove Municipal Court. The Theft charge would stem from you issuing a check when you knew the check would not be good.

Under Oregon Law, if you do not make the check "good" within the ten (10) day period, your failure to make it good constitutes PRIMA FACIE EVIDENCE that you knew the check was not good when you presented it. (In other words, the court can take into account your failure to "make the check good" as evidence of your guilt).

If this matter is referred to the Cottage Grove Police Department, you may be subject to CRIMINAL prosecution, and if convicted, you are subject to a FINE, a JAIL sentence or BOTH

Sincerely,

# BEFORE YOU WRITE THAT CHECK!!

PERSONS WHO PASS BAD CHECKS MAY BE  
CHARGED WITH A CRIME AND WHEN  
CONVICTED FACE A FINE  
AND / OR JAIL SENTENCE.

**The Management of**

---

**&  
Cottage Grove Police Department**