



FORGED AND NSF CHECKS

Lake Oswego Police Department and
Clackamas County District Attorney's
Office Check Packets



LAKE OSWEGO POLICE DEPARTMENT

FORGED CHECKS

(Account Closed and NSF Checks not accepted under \$750)

The Lake Oswego Police Department will investigate reports of bad checks above \$750 and attempt to get them prosecuted through the Lake Oswego Municipal Court. To do this, you must be familiar with Oregon State Law and recognize that you have responsibilities in the process of prosecution. During the normal course of business, you are going to come in contact with three different types of checks:

(For checks under \$750, please contact the Clackamas County Check Enforcement Program at 1-800-671-3049 or www.hotchecks.net/clackamas.)

A. **FORGED.** Forged checks are criminal problems the instant they are written. All forged checks in any amount should be immediately referred to the police department.

B. **ACCOUNT CLOSED.** Account closed checks are also criminal problems the moment they are written. There are problems if the bank cannot tell us when the customer was notified the account was closed. In these cases, account closed checks must be handled as nonsufficient funds (NSF). We will not accept checks under \$750.

C. **INSUFFICIENT FUNDS (NSF).** According to Oregon Revised Statutes, insufficient fund checks are civil problems at the time they are written. We will not accept checks under \$750. Civil problems become criminal problems only when the person accepting the check has done several things:

1. State law requires that you attempt to notify the person who wrote the check to tell them their check has bounced by the following:

a) Contact by phone or in person; and

b) Send letters to the best address you have for the person who wrote the check. We recommend sending certified or registered "return receipt requested" as documented proof should the case go to court.

2. Once the person has been advised, they have ten (10) days to make the check good before the matter becomes a criminal problem.

3. On the fifteenth (15th) day, bring the insufficient fund check to the police department and we will attempt to investigate the case and pursue criminal prosecution.

To investigate and then prosecute writers of bad checks through the City Attorney's Office for Theft by Deception or Negotiating a Bad Check, efforts must be made to prove the following:

- A. The writers KNEW the check would not be paid (honored) by the bank at the time the checks were written.
- B. The check was presented to the bank for payment within 30 DAYS after it was received.
- C. The writers WERE GIVEN NOTICE that the bank had refused payment.
- D. The writers FAILED TO PAY the sum of the check within 15 DAYS after receiving notice that the bank had refused payment.
- E. The persons who took the check can PHYSICALLY IDENTIFY the person(s) who passed the check.

You must remember that the Lake Oswego Police Department is not a collection agency. We provide investigation into criminal cases. Sometimes the checks are made good by the suspect(s) as a natural byproduct of the criminal investigation or the court process. It must be emphasized that the purpose of the investigation is criminal prosecution and not simply to get your money back.

From a practical standpoint, there are many different types of checks that experience has shown will not usually result in a successful criminal investigation or prosecution. If you decide to accept these types of checks, you must understand that criminal prosecution is very unlikely. Be advised you will probably be accepting these checks at your own risk:

- A. **Out-of-State**. The cost of prosecuting out-of-state checks is quite prohibitive. These types of checks would not normally be prosecuted unless they are a very large amount.
- B. **Two-Party**. Two-party checks are almost impossible to prosecute because the person who gives you the check is not usually the person who wrote the check. A course of legal action is missing from that type of check writing scheme. It is highly recommended that businesses not accept two-party checks.
- C. **Government**. Government checks are very difficult to prosecute because it is cost prohibitive to bring a representative of the federal government into a court room. Government checks will not normally be investigated and prosecuted.
- D. **Post-Dated**. These are very difficult to prosecute as it can be shown that "credit" has been extended to the writer(s) of the check(s). This introduces a whole new set of rules that are rather complicated and difficult to explain in this brief form.

Many of the problems associated with investigation and prosecution of bad checks have to do with a simple matter of identification. We recommend the following:

- A. That no check be accepted unless the writer of the check has at least one of the following forms of photo identification:

1. State driver's license; or
2. Photo identification card issued by the State of Oregon; or
3. Photo identification card issued by a bona fide governmental agency.

B. The second form of identification we recommend is credit cards. If writers of checks have established credit and have a few credit cards in their name, the risk factor to the merchant is substantially less than if those persons have never established credit.

The attached form was designed to assist law enforcement agency personnel to establish cases against writers of bad checks. When you have completed these forms, contact the Lake Oswego Police Department at 503-635-0238. You will also need to:

A. Sign a criminal complaint at the City Attorney's Office against the writer(s) of the check(s); and

B. Make available to the court the person who accepted the check(s) and the person who can physically identify the writer(s) of the check(s).



**LAKE OSWEGO POLICE DEPARTMENT
380 A AVENUE / PO Box 369
LAKE OSWEGO, OREGON 97034
(503) 635-0238**



LAKE OSWEGO POLICE DEPARTMENT

CHECK REPORT PACKET FOR BUSINESSES

(Account Closed and NSF Checks not accepted under \$750)

This form is to be completed in the following situations:

1. When a check is returned by the bank in an amount in excess of \$750 marked NSF (nonsufficient funds). In this situation only, prior to filing a police report, **BUSINESSES ARE REQUIRED TO NOTIFY THE CHECK WRITER THAT THE CHECK HAS BEEN DISHONORED AND DEMAND IMMEDIATE PAYMENT OF THE CHECK PLUS (ACTUAL) BANK CHARGES.** This may be done either by mail or by phone. If, after fifteen (15) days the matter has not been satisfied, you may refer the check to our office. A copy of the letter sent to the check writer must be attached to this form.

2. It has been determined that the check has been stolen, forged or the account on which the check was drawn on does not exist or has been closed.

After this form has been completed, please contact the Lake Oswego Police Department at (503) 635-0238 for investigation and prosecution.

HANDLE THE CHECK AS LITTLE AS POSSIBLE!

Place the check in an envelope and attach it to this form.

Person or business to whom the check is payable (YOUR INFORMATION):

Name: _____
LAST FIRST MIDDLE INITIAL

Date of Birth: _____
MONTH DAY YEAR

Business Name/Address: _____

Business Phone: (____) _____ - _____ Alternate Phone: (____) _____ - _____

Property Loss:

What was given in exchange for the check (cash, goods, services, etc., please itemize if possible):

I, the undersigned, represent and declare the above information is true and correct to the best of my knowledge and belief and that I wish to prosecute the writer or passer of the bad check, including signing a criminal complaint against the person, and providing an employee for possible future court appearances.

DATED: _____

Signature

Printed Name

Title

After completing this form, attach the envelope containing the check and a copy of the letter requesting payment (NSF case only) to this form and contact the Lake Oswego Police Department at (503) 635-0238.



LAKE OSWEGO POLICE DEPARTMENT
380 A AVENUE / PO BOX 369
LAKE OSWEGO, OREGON 97034
(503) 635-0238



John S. Foote, District Attorney for Clackamas County
Check Enforcement Program

807 Main Street - Room 7, Oregon City, Oregon 97045



Guidelines for handling checks

Dear Clackamas County Business Professional:

In an effort to lower the impact of worthless check crime on our community, I have implemented a new Check Enforcement Program. There are several parts to this program - all working together to benefit our entire community.

This is a pre-filing diversion program designed to provide strong incentives for check writers to make good on their worthless checks while lowering the burden on our entire legal system. But the Check Enforcement Program goes beyond simple diversion.

- **We provide instruction that helps merchants prior to receiving a bad check.**
- **We have implemented a powerful administrative engine to handle the restitution process quickly and efficiently.**
- **Finally, a new educational course helps check offenders gain control of their finances and avoid future bad checks.**

Because the Check Enforcement Program is funded entirely by the check offenders, it costs merchants, other tax payers and Clackamas County nothing. My office and the entire Clackamas County law enforcement community have a strong commitment to making the Check Enforcement Program - a win/win situation for everyone involved.

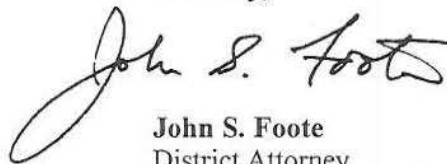
But we need your help to make the Program truly succeed.

Please take the time to read the enclosed information. There are some "rules" that apply to bad checks and knowing exactly what steps to take and when to take them can make a big difference in how successful we will be in recovering your money.

Educate management and staff on their responsibilities. Post the materials. Use the Program to its fullest. It costs nothing and you will receive 100% of the value of every check we successfully recover - plus the bank charges you incur as a result of the bad check.

Help us make a difference. We look forward to serving you.

Sincerely,



John S. Foote
District Attorney

Tips for handling a check

What to look for when you accept a check

If you want to protect yourself from losses due to bad checks there are certain "rules" you should follow that can have a big impact on your success. Many of the most important rules apply at the moment you accept the check for payment. State statutes, local requirements and simple practicality also influence what can or cannot be done to recover a bad check loss.

There are some simple steps you should always take when accepting a check. We've developed a simple acronym - **SANDI** - to help people remember the steps.

1 S Double Check the Signature. Watch the person sign the check. Pre-signed checks are often trouble. Compare the signature against a photo ID that contains the person's signature. A Driver's License is best - and record the Driver's License number or Social Security number on the check. Student ID numbers and Military ID are also good identifiers that you should get if possible.

2 A Compare the Amounts. If the amount written in numbers and the amount written in words don't match, the bank won't accept it. Carefully read both versions of the amount. If they don't match, don't accept the check.

3 N Check the Number. It's a fact that most bad checks are written on new accounts. Be especially aware of checks that seem to be on a new account (i.e. Numbers in the "low 100's" or "low 1000's").

4 D Today's Date. Post-dated checks do not qualify for the Program. Make sure the date on the check matches the date you accept it.

5 I Complete ID. It is important that you get as much identification as possible. The Social Security Number is preferred but, at a minimum you **MUST** get the following:

"MUST HAVES"

- Name
- Address (a street address is best)
- City - State - Zip
- Phone Number
- Drivers License, Social Security, Military or Student Number

✓ Mark each item on the check as you verify it. **BE SURE TO PUT YOUR INITIALS ON THE CHECK.**

THE IMPORTANCE OF VERIFIED IDENTIFICATION

Being able to actually identify a check writer can be critical in enforcing a bad check. In order to prosecute, the person who accepts the check must be able to identify the check writer.

This requires some measure of proof. Reasonable proof can be:

- 1) The person accepting the check verified identity using Photo ID -
--- OR ---
- 2) The person accepting the check personally knows the check writer.

The person who accepts the check **MUST** be noted. They should put their initials or employee number on the check.

5 John W. Doe
DL#1242131 - 12/6/47
222 East Market Blvd.
Lemon Grove, ST 22222 **4**

Paid to _____ \$
the order of _____

2 First National Bank of Santee
3141 East Nations Blvd.
Santee, ST 22112 **1**

MEMOs
883 1123 4567 77 8 8 9 0

Complete, verified identification can also that a check takes within the Program. Full ID for checks submitted to the Program. We can restitution - if all other aspects of the check at guidelines of the Program.

HOWEVER, victims must be aware that v verified identification, we may not be able to court. If a check reaches that point, it will be victim. It can possibly then be pursued as a ci

Guidelines for submitting a bad check to the Check Enforcement Program

REGISTRATION

If you have not yet registered with the Check Enforcement Program, it is important that you provide basic information regarding your company. (See accompanying Merchant's Registration Form.) You need only register one time, but if any of your information changes, please inform our office.

BEFORE YOU REFER A CHECK TO THIS PROGRAM

Prior to referring a check to the Program, Victims are required to notify the check writer that a check has been dishonored and demand immediate payment of the check plus (actual) bank charges. This may be done by mail. If, after 15 days, the matter has not been satisfied, you may refer the check to our office.

We have provided a Sample Notification Letter on the back of this brochure. It contains text that is appropriate for demanding payment of a dishonored check. Remember Victims cannot make threats of prosecution - either written or oral - to enforce or enhance the collection or honoring of the check.

PREPARING CHECKS FOR REFERRAL

- Enclose the original check with the Check Complaint form. Make a photocopy of the checks you are referring (both sides) for your files.
- Each check writer you refer to our office for enforcement **must** be accompanied by a Check Complaint form. This form lists all the information needed to process the bad check. It is important that you fill out as much of the information as possible to assure effective enforcement. (If you do not know a piece of information you can still refer the check.)
- Please write or print information clearly. Checks are often very difficult to read. One of the reasons for filling out a Complaint Form is to assure we can read names, dates and amounts accurately.
- Company checks must have the name of the person who signed the check. If there is no signature, you should find out who was responsible for issuing the check.

ELIGIBLE CHECKS

Most are eligible for the Check Enforcement Program. These include checks returned because of :

- "Insufficient " or "Non-sufficient Funds" • "Closed Account" • "No Account"

INELIGIBLE CHECKS

Some checks are not eligible for the Check Enforcement Program. Checks that do not qualify include:

- Checks for an amount greater than \$750
- Checks marked "Refer to Maker"
- Post-dated, pre-dated or updated checks
- Checks sent through the mail
- Checks older than 90 days
- Rent checks
- Stop payment checks
- Two-party checks
- Checks passed outside Clackamas County
- Checks drawn on out-of-state banks

You may still wish to pursue these checks with the help of an attorney or in a civil proceeding.

FOLLOW-UP

You will either receive the money due you or we'll return the check with an explanation of why we were unable to prosecute. If a check (or checks) are deemed prosecutable, you will be informed of what steps you must take as part of the prosecution process.

MORE INFORMATION

We will do our best to make sure your bad checks are handled efficiently and promptly. If you have questions about this Program or any bad checks you have submitted, call **toll-free:**

1-888-671-3049

You can download forms and get more information online at: **hotchecks.net/clackamas**

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Dollars

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Sample Demand Letter

Victims of worthless checks are required to make at least one attempt to notify a check writer to demand payment of a dishonored check. **This can be done by mail. The check writer must then be given fifteen (15) days to respond.** (If, after that time, the matter has not been resolved, the check can be referred to the Check Enforcement Program. See the Program Guidelines for more details on referring a check.)

The sample demand letter below is suitable to send the check writer. The language of the letter conforms to the requirements of Oregon statutes and the District Attorney's Office.

Note: Victims of worthless checks must not make any threats of prosecution - written or oral - to enforce or enhance the collection or honoring of the check.

Be sure to date the letter.

You can vary this text, but the text of a demand letter must "substantially conform to" this wording.

When you submit the check to the Check Enforcement Program we also collect a victim service fee - corresponding to your actual bank charges (as provided by ORS 135.925(6)) - in addition to the amount of your check.

Keep a copy of the letter for your files.

If it is returned as undeliverable, you should enclose the undelivered letter when you submit the check to the Check Enforcement Program.

Calling the check writer:

In the event you contact the check writer by phone, you should give essentially the same information as shown in this sample letter.

Of course you are free to discuss the matter with the check writer, but remember to avoid threats of prosecution.

(Company letterhead)

Check writer
Address
City, State Zip

Date

Re: Notice of Dishonored Check

You are hereby notified that a check, number _____, issued by you on *(date of check)*, drawn-upon *(name of bank)*, and payable to *(your business)*, has been dishonored.

You have fifteen days from the date of this notice to tender payment of the full amount of the check plus a fee of \$ ____ to the undersigned at:

You are further notified that in the event the above amount is timely paid in full, you will not be subject to legal proceedings, civil or criminal.

Sincerely,

(Signed)
(phone number)

FOR MORE INFORMATION

If you have questions about the Program or any of the bad checks you have referred, call us toll free at 1-888-671-3049 or visit the Check Enforcement Program website for more information or to download forms: hotchecks.net/clackamas

Clackamas County District Attorney's Check Enforcement Program

807 Main Street - Room 7 • Oregon City, OR 97045



Clackamas County District Attorney's

Check Enforcement Program

Check Complaint Form

District Attorney's
Check Enforcement Program
807 Main Street - Room 7
Oregon City, OR 97045

Submit to:

Contact the Check Enforcement Program at: **1-888-671-3049** or visit the website at hotchecks.net/clackamas

VICTIM INFORMATION

Company Name _____ Merchant Program No. _____

The undersigned states that he/she has actual knowledge of the facts stated below and believes that they are true as presented.

Print Name: _____ Title: _____

Signed: _____ Date: _____

Certain checks are civil rather than criminal issues. Please check this box to verify that no check(s) submitted were post-dated or accepted as payment on an account and that there was no agreement to hold any check.

CHECK-WRITER INFORMATION

Name: First _____ Middle _____ Last _____ Suffix _____

Address _____ Home Phone _____

City _____ State _____ Zip _____ Date of Birth _____ Gender: M F

Employer _____ Work Phone _____

Driver's License # _____ State Where Issued _____ Other Photo ID _____

Please list any additional information to help identify or locate the check writer:

Please staple **Original Check(s)** here. Staple required supporting information to the back of this form.

IMPORTANT

It is important to try to establish positive ID. It can be done two ways: (1) if photo ID is verified and noted or (2) the person taking the check can positively identify the check writer. If possible, list the name of the person who can positively identify the check writer for each check below.

Eligible Checks:

- Insufficient Funds or Non-sufficient funds
- Closed Account
- No Account

Ineligible Checks

- Checks for an amount greater than \$750
- Checks marked "Refer to Maker"
- Checks sent through the mail
- Checks older than 90 day
- Rent Checks
- Stop payment checks
- Two-party checks
- Checks passed outside Clackamas County
- checks drawn on out-of-state banks.

CHECK INFORMATION

1 Reason check was dishonored: NSF Account Closed No Account

Ck. No.	Date passed	Amount	Bank charges incurred	Person who accepted check	Was partial payment accepted? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what amount?
		\$ _____	\$ _____		\$ _____

Photo ID was checked and verified Can the person who accepted this check positively identify the check writer? Yes No

2 Reason check was dishonored: NSF Account Closed No Account

Ck. No.	Date passed	Amount	Bank charges incurred	Person who accepted check	Was partial payment accepted? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what amount?
		\$ _____	\$ _____		\$ _____

Photo ID was checked and verified Can the person who accepted this check positively identify the check writer? Yes No

3 Reason check was dishonored: NSF Account Closed No Account

Ck. No.	Date passed	Amount	Bank charges incurred	Person who accepted check	Was partial payment accepted? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what amount?
		\$ _____	\$ _____		\$ _____

Photo ID was checked and verified Can the person who accepted this check positively identify the check writer? Yes No



John S. Foote, District Attorney for Clackamas County
Check Enforcement Program

807 Main Street - Room 7, Oregon City, Oregon 97045

Merchant Registration

The Clackamas County Check Enforcement Program requires that Victims register with our office. This information helps speed up processing of checks and helps assure the prompt and accurate transmittal of recovered funds. Please take a few minutes to complete the form below so that we can update our records. **Thank you for your help.**

Business or Individual Information – Please include company name as well as the division or store name that applies to your particular location. Include a contact person's name and phone number. If more than one person is responsible for bad checks in your organization, include that person's name also.

NOTE: This information is to be used only by the District Attorney's Office and its agents for the purpose of managing bad checks that have been turned over to the District Attorney's Office.

1. Business or Individual Information

Business or Individual's name _____

Division, store number or location (if applicable) _____

Address _____

City _____ State _____ Zip Code _____

Primary contact _____

Phone _____ FAX _____

Number of cash registers for which you will need Notification Signs _____

Approximate number of bad checks you receive each year _____

If several business locations are involved, please fill out this form for each of them.

2. Many companies work through a central office. If that is true for your location, please include this information. Special handling requests should also be included. We will do our best to comply, but we cannot guarantee all requests can be honored.

Central Location Information

Location Name _____

Primary Contact _____

Address _____

City _____ ST _____ Zip _____

Phone _____ FAX _____

4. Special Handling requests: _____

3. Send the following to Central Location address:

Victim Confirmation - acknowledging receipt of bad checks for handling.

Restitution - Restitution checks and confirmation letters.

Finalization Notice - Notices of checks being returned as uncollectible, cases resolved or otherwise finalized.

Other - Miscellaneous communications.
 Specify: _____

Merchant's Agreement

Any merchant or individual who receives an "Insufficient Funds," or "No Account" or "Account Closed" check may use the District Attorney's Check Enforcement Program. The Program is completely funded by the check offenders.

The following outlines the merchant's or individual's responsibility in handling bad checks through the Check Enforcement Program:

1) The Clackamas County Check Enforcement Program is a Diversion Program which offers the check writer a chance to pay the checks and fees instead of facing prosecution.

2) If a check is not honored by the bank, you must contact the check writer by mail. You may not submit the check to a collection agency prior to submitting the check to the Clackamas County Check Enforcement Program.

3) Check writers must be allowed 15 days to comply by paying the full amount of the dishonored check plus a bank charge fee. (This is the actual service fee amount charged by your bank for handling bad checks. You must indicate the bank charge amount on the Check Complaint form.)

If the check writer fails to comply within the allowed 15 day period, you may immediately turn the check - and any supporting information - over to the Check Enforcement Program.

4) To refer a check to the Check Enforcement Program, you must fill in the Check Complaint Form and attach it to the original check and forward it within 90 days of receiving the check to:

Clackamas County District Attorney's Office
Check Enforcement Program
County Courthouse
807 Main Street - Room 7
Oregon City, OR 97045

5) Make copies of all documents you submit to the Check Enforcement Program - including both sides of the original check. Submit the originals and retain the copies for your files.

6) This agreement may be amended from time to time by the District Attorney and such amendments will be effective upon mailing of a notice to the undersigned party.

7) Direct all inquires about the check(s) that you submit to the Check Enforcement Program - call 1-888-671-3049 or write to the address indicated below.

8) For various reasons, the Check Enforcement Program can not guarantee that all checks submitted will be recovered or prosecuted. Additionally, some types of checks may not qualify for the Program. This includes but are not limited to the following:

- Checks for amount greater than \$750
- Post-dated, pre-dated or updated checks
- Checks older than 90 days
- Stop payment checks
- Checks passed outside Clackamas County
- Checks marked "Refer to Maker"
- Checks sent through the mail
- Rent checks
- Two-party checks
- Checks drawn on out-of-state banks

Victims may still wish to pursue these checks with the help of an attorney, a collection agency or in a small-claims or civil court proceeding.

The undersigned acknowledges that the Clackamas County District Attorney's Check Enforcement Program is a voluntary program provided by the Clackamas County District Attorney's Office. No liability is assumed by the above parties in connection with this program nor are said parties guaranteeing the payment of restitution in any amounts by the offender. The only remedy will be to request return of the check from the program.

PRINT NAME: _____

DATE: _____

SIGNATURE: _____

PASSING A BAD CHECK IS A CRIME!



We cooperate with
JOHN S. FOOTE
Clackamas County District Attorney

**BAD CHECKS WILL BE TURNED OVER TO THE
DISTRICT ATTORNEY FOR PROSECUTION
FEES, FINES AND OTHER COSTS WILL BE ADDED TO THE AMOUNT OWED.**

This packet contains certain portions of the Lake Oswego City Code and is provided for informational purposes only and should not be relied upon as the official Code or Charter.

NOTE: Certain sections are NOT COMPLETE. Some sections are omitted as their content is not directly related to the intent of this packet. Where this occurs, the omission is represented by (...).

Copies of the official City Code and Charter may be obtained through the City Attorney's Office and the entire Code can be viewed online at <http://www.codepublishing.com/or/lakeoswego/>

