

ORDINANCE NO. 348

AN ORDINANCE PROHIBITING THE DRAWING OF CHECKS WITHOUT SUFFICIENT FUNDS OR ON CLOSED ACCOUNTS AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF

THE CHARTER TOWNSHIP OF GRAND RAPIDS ORDAINS:

Section 1. Purpose. The purpose of this Ordinance is to protect the public health, safety and general welfare of persons and property owners in Grand Rapids Charter Township by prohibiting the drawing of checks without sufficient funds or on closed accounts.

Section 2. Definitions. As used in this Ordinance, the term:

(a) Address of Record shall mean the address that appears on the check or the last known address of record of the maker or a check that is recorded with the Secretary of State at the time the check was presented for payment of money, goods, or services.

(b) 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.

(c) 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 payment when presentment is made to the payee; and/or

(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; and/or

(3) Any check, draft or order drawn or written on any account for stop payment, any bank administrative purpose or any other reason that caused the check to become dishonored when presentation was made to the payee, except:

a. When a stolen check was passed; or

b. A stop payment check where a verified dispute exists between two parties.

(d) AMaker@ shall mean a person, business, organization, partnership, company, or corporation who is the maker, drawer or writer of a check.

(e) APayee@ shall mean a person, business, organization, partnership, company, or corporation to whom a check is presented for payment, or is requested to pay the amount of money therein mentioned.

(f) APresent@ shall mean the make, draw, utter or deliver a check.

(g) APresenting@ shall mean the making, drawing, uttering or delivering of a check.

(h) AProtest@ shall mean a check has been refused for payment or acceptance by a bank or other depository.

Section 3. Prohibited Conduct.

(a) It shall be unlawful for any person to, with the intent to defraud:

(1) 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, uttering or delivering, that the maker 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 its presentation, of the amount payable in such check, draft or order in any amount, and/or;

(2) 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, if at the time of making, drawing, uttering, or delivering the check, draft or order he or she does not have an account in or credit with the bank or order depository for the payment of the check, draft, or other upon presentation, and/or;

(3) 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 payee 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 so doing.

Section 4. Prima facie evidence.

(a) As against the maker or drawer thereof, the making, drawing, uttering or delivering, of a check, draft or order, payment of which 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, with five (5) business days after receiving notice by first class mail that such check, draft, or order has not been paid by the drawee.

(b) When such check, draft or order is protested on the grounds 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 sufficient funds or credit with such bank or other depository.

Section 5. Penalty. The penalty for a person convicted of violating this Ordinance shall be a fine of not more than \$500.00 and costs of prosecution and cost recovery or by imprisonment for not more than 90 days, or both such fine and imprisonment in the discretion of the court. Each act shall constitute a violation and every day upon which any such violation shall occur constitutes a separate offense.

Section 6. Severability. If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall be effective thirty (30) days after publication.

