

CEDARBURG POLICE DEPARTMENT
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CEDARBURG, WI 53012
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WORTHLESS CHECK POLICIES AND PROCEDURES

An increasing number of complaints involving worthless checks prompted the Cedarburg Police Department to review its policies and procedures with the respect to the acceptance and investigation of complaints involving worthless checks.

As a result of this review the Common Council of the City of Cedarburg passed Ordinance 11-03-6 which adopts the provisions of State of Wisconsin Statute 943.24 prohibiting the issuance of worthless checks. The passage and adoption of this ordinance will allow the Cedarburg Police Department to initiate the prosecution of violators of the ordinance through a civil forfeiture action, as opposed to the more lengthy criminal prosecution initiated by the District Attorney's office.

This same review resulted in the revision and implementation of strict policies and procedures concerning the acceptance and investigation of complaints involving worthless checks by the Cedarburg Police Department.

As such, effective February 19, 2008 the following policies and procedures must be adhered to by those submitting complaints involving worthless checks:

- STEP 1 - The check which is the subject of the complaint must be presented to the bank for payment by the complainant two (2) times or until such time as the bank indicates that the check should not be redeposited. Checks which are returned initially by the bank with an indication that the account has been closed do not have to be presented a second time.
- STEP 2 - The complainant should make reasonable efforts to contact the issuer of the check by telephone in an effort to collect restitution on the check which is the subject of the complaint.
- STEP 3 - Should those reasonable efforts fail, the complainant must notify the issuer of the check in writing of the status of the check which is the subject of the complaint. In order for a violation of City of Cedarburg Ordinance 11-3-6 or State of Wisconsin Statute 943.24 to occur, the issuer of the check must fail "...within 5 business days after receiving notice of nonpayment or dishonor to pay the check..." This written notification must be forwarded to the issuer of the check by U.S. Mail. If the letter is returned to sender undeliverable, please forward the letter to the investigating officer. A suggested format for this written notification is attached to this document for your review.
- STEP 4 - Should the issuer of the check fail to heed the warnings contained in that written notification within five (5) days of its issuance, the complainant must completely prepare a Cedarburg Police Department Worthless Check Questionnaire following the instructions contained on that questionnaire. This questionnaire is attached to this document for your review.
- STEP 5 - The complainant must respond in person to the Cedarburg Police Department to submit a complaint involving the issuance of worthless checks. Before any complaint involving the issuance of worthless checks will be accepted and investigated by the Cedarburg Police Department, the complainant must provide this department with the following items:
 - A) The original check which is the subject of the complaint.
 - B) Evidence that the check which is the subject of the complaint was submitted to the bank for payment by the complainant two (2) times; or once for checks marked "account closed".
 - C) A machine photocopy of the written notification which was forwarded to the issuer of the check which is the subject of the complaint.

D) A Cedarburg Police Department Worthless Check Questionnaire completely prepared following the instructions contained on that questionnaire.

Guided by the outlined policies and procedures, the Cedarburg Police Department then will be able to expediently and efficiently investigate complaints involving the issuance of worthless checks. It should be understood, however, that complaints submitted to the Cedarburg Police Department are accepted for the purpose of enforcing violations of City of Cedarburg Ordinance 11-3-6 and State of Wisconsin Statute 943.24.

As in the past, the Cedarburg Police Department will continue to make reasonable efforts to collect restitution for checks which are the subject of such complaints. It remains legally feasible, however, that prosecution through a civil forfeiture action initiated by the Cedarburg Police Department may be pursued without having obtained that restitution. This prosecution, however, does not prohibit the complainant from utilizing other legal remedies in an effort to collect that restitution.

SAMPLE WRITTEN NOTIFICATION OF WORTHLESS CHECK

The following is a suggested narrative for the required written notification which must be forwarded to the issuers of worthless checks. This written notification must be forwarded by certified mail with a return receipt indicating the date and to whom the written notification was delivered.

DATE _____
TO _____

Under the provisions of City of Cedarburg Ordinance 11-3-6 and State Statute 943.24, both of which Prohibit the issuance of worthless checks, accepts this correspondence as written notification that the following check was returned by your bank and payment was refused for the reason(s) indicated below:

CHECK NUMBER _____
DATE OF CHECK _____
AMOUNT OF CHECK _____
BANK CHECK DRAWN ON _____
REASON PAYMENT REFUSED _____

You are, therefore duly warned and advised that unless restitution in the amount of the check indicated above is not received within five (5) days from the date of this notice, that a complaint will be filed with the Cedarburg Police Department. You are further duly warned and advised that the submission of this complaint may also be complimented by other legal action against you as provided for by applicable State of Wisconsin Statutes.

WORTHLESS CHECK INFORMATION FORM DISTRICT ATTORNEY'S OFFICE

- THE FOLLOWING FORM MUST BE COMPLETELY FILLED OUT BY THE COMPLAINANT FOR EACH CHECK SUBMITTED TO THE D.A.'S OFFICE;
- IF ANSWER IS UNKNOWN / STATE THIS ON LINE PROVIDED; (N/A OR UNKNOWN)
- THE COMPLAINANT IS THE BUSINESS OR INDIVIDUAL RECEIVING THE CHECK;
- THIS FORM **MUST** BE SIGNED BY THE EMPLOYEE ACCEPTING THE CHECK AND THE COMPLAINANT WHO IS AN AUTHORIZED AGENT OF THE BUSINESS

Name of Complainant _____

Complainant Address _____

Business Phone # _____ Type of Business _____

Name of Person Accepting Check _____ Position _____

What Verification Was Written On Check To Identify Person Accepting Check? _____
(Employee Initials, Number, Etc.)

Amount of Check _____ Date Check Given To You _____

Check Made Payable To _____

Did Person Ask You To Hold The Check For Any Period of Time? _____

When Check Was Given To You, Did Person At The Same Time Receive Goods/Services? _____

Name of Bank Check Is Drawn On _____

Reason Check Was Refused By Bank _____ How Many Times Check Presented to Bank? _____
(NSF, Account Closed, Etc.)

First Date Check Presented to Bank _____ Second Date Check Presented to Bank _____

Name of Account Holder For Checking Acct.? _____

Did He/She Present The Check? _____ How Was He/She identified? _____
(Employees should be identifying author by their drivers license)

What Identifying Information Was Obtained? _____
(Driver License Number, Address, Date of Birth, Physical Description,

Identifying Features-glasses, mustache, scars etc.)

Is Person Who Cashed Check Personally Known By Complainant or Employee? _____

Any Other Important Information (Description of Car, Accomplices, etc.) _____

Was Check Presented In Payment of A Past Due or Current Account _____

Did Check Pay Said Account In Full? _____ If Not, What Is Balance? _____

What Was Purchased With The Check? _____

Has there been any attempt by the complainant to collect on this check making this complaint? And, if so, what has been done (Attach copies of any letter or other correspondence between complaint and check presenter)

IT IS UNDERSTOOD AND AGREED THAT THE CHECK HERETO ATTACHED IS BEING PRESENTED FOR CRIMINAL ACTION TO THE DISTRICT ATTORNEY AND THE UNDERSIGNED, ITS AGENTS AND EMPLOYEES WILL COOPERATE IN THE PROSECUTION OF THE CRIME HEREIN AND WILL NOT REQUEST THAT THE COMPLAINT ON THIS CHECK BE DISMISSED, **NOR WILL WE ACCEPT PAYMENT ON THE CHECK WITHOUT THE CONSENT AND APPROVAL OF THE DISTRICT ATTORNEY'S OFFICE.** THE FACTS ARE HEREBY CERTIFIED AS BEING TRUE BY THE UNDERSIGNED.

Dated this _____ day of _____, _____.

Complainant – Authorized Agent

Person/Employee Accepting Check