

CITY OF CLAWSON
OAKLAND COUNTY, MICHIGAN
ORDINANCE NO. 775

A PAYMENT BY CHECK WITH KNOWLEDGE OF INSUFFICIENT FUNDS ORDINANCE SECTION 46-102 TO REGULATE PAYMENTS BY CHECK WITH INSUFFICIENT FUNDS, PROVIDING DEFINITIONS, SANCTIONS AND RESTITUTION

THE CITY OF CLAWSON HEREBY ORDAINS:

Payment By Check with Knowledge of Insufficient Funds Ordinance

46-102. *Payment by Check with Knowledge of Insufficient Funds.*

- (a) It shall be unlawful for any person, with intent to defraud, to make or draw or 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 such making, drawing, uttering or delivering that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation. It shall be unlawful for any person with the intent to defraud to 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, and not to have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, 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, if the amount payable in the check is fifty dollars (\$50.00) or less.
- (b) 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 costs and protest fee, within five (5) days after receiving notice that such check, draft or order has not been paid by the drawee.
- (c) Where such check, draft or order is protested, on the grounds of insufficient funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and protest, and shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds or credit with such bank or other depository.
- (d) The word "credit" as used in this section, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft or order, in full, upon the presentation thereof for payment.
- (e) Any person or entity who shall be determined by a court of competent jurisdiction to be a victim of any of the acts prohibited by the ordinance shall be entitled to full restitution for their actual financial loss.
- (f) A person who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 93 days and/or by a fine of not more than \$500.00, or both.

State Law reference— Similar provisions, MCL 750.131 et seq.

DATE OF EFFECT.

The Clawson City Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take full force and effect ten (10) days after the date of publication.

This Ordinance was adopted by the City Council of the City of Clawson at a meeting duly called and held on the 19th day of September, 2023 and ordered to be published as presented _____ by _____ law.

STATE OF MICHIGAN)

COUNTY OF OAKLAND)

I, the undersigned, the duly qualified and active City Clerk of the City of Clawson, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance made, passed, and adopted by the Council of said City at a regular meeting held in the Council Chambers, 425 N. Main Street, Michigan, on Tuesday, the 19th day of September, 2023 at 7:30 p.m., further this Ordinance was duly published in the Saturday, September 30th, 2023 edition of the Daily Tribune, a newspaper of general circulation in the City of Clawson.

Paula Millan
Paula Millan, Mayor

August R Gitschlag
August Gitschlag, City Clerk

Dated: September 30, 2023

Dated: September 30, 2023