

# Bad Checks

*A guide for businesses and citizens*



## What is a Bad Check?

“Bad” checks are those given in the City of Falls Church for immediate payment of goods, merchandise, money, services, and other things of value but which are returned by the bank for insufficient (or no) funds or credit in the bank for the account upon which that check is drawn. There are other checks, however, which are returned by the bank for insufficient funds which do not fall into the scope of the bad check law.

## Which checks are not Bad Checks?

The following checks are not considered bad checks by law and if returned by the bank, a civil suit may be filed against the check writer for the amount of the check.

- Checks given in payment of accounts due or in payment of a past debt. These are not considered bad checks because property was not acquired nor a right lost when the check is dishonored.
- Checks given in payment of a bad check are considered a form of payment on an account.
- Postdated checks. These checks are considered by the court system as a mere promise to pay in the future or a form of credit extended to the check writer.
- A disclosure by the maker at the time of delivery that he or she has insufficient funds. The agreement of the payee to hold the check will bar prosecution because the payee has extended credit instead of relying entirely upon the check.
- Checks given in payment of rental housing. Rental housing is not considered goods and services.
- Checks that were presented as gifts.
- Checks that have a stop payment
- Third Party checks

The receiver of the bad check must be able to provide an accurate physical description of the suspect and positively identify him or her.

Businesses accepting checks must have the following information on the front of the check:

Full Name, Residential Address, Home Telephone Number, Drivers License Number/Government Identification Number and the initials of the representative of the payee or cashing party to whom the accused delivered the check, draft or order.

If you have a bad check and wish to pursue the case criminally, please follow the directions in this packet to ensure successful prosecution. If you want to only pursue a civil case, contact the Falls Church City General District Court at (703) 248-5096 to file the proper paper work for a civil case.

If you have or suspect you have a forged or fraudulent check, contact the Falls Church Police Department and a report will be taken. These checks fall under a different code section and are investigated differently. A detective will be assigned to these cases and will conduct a follow-up investigation.



## Procedure for Misdemeanor Bad Checks Checks valued under \$200.00



If you received a bad check for **less than \$200.00**, it is a misdemeanor. If you wish to criminally prosecute the case you are legally obligated to proceed with the case even if payment is received prior to the court date.

Please follow the check list below and re-contact the Falls Church Police Department when the check list is complete.

### **Five Day letter sent**

You must send the enclosed 5 day letter by certified or registered mail, return receipt requested to the address of the check's maker or drawer on the front of the check. Even if you know another address for the check writer that may be correct, it must be sent to the address listed on the check. This letter will serve as sufficient notice that a bad check has been presented. Additionally, it is considered notice to the maker, drawer or the addressee if such notice is returned undelivered.

If the check is a “starter” check and is not printed with the account holder's name and address, someone must sign the acknowledging receipt of the notice at the address given.

### **Wait five full days after the notice is delivered**

If the payment is received, the matter ends here. However, do not relinquish the original check if only part of the payment is made or when the payment is in the form of another check. If you wish to pursue this case criminally **DO NOT ACCEPT** a partial payment.

### **Complete the enclosed criminal complaint form**

Fill out the enclosed criminal complaint form as best as you can. If there is information you do not know, the Falls Church Police will assist you with that.

### **Contact the Falls Church Police**

Now that you have all of the proper documentation, call the Falls Church Police and a police report will be taken. You do not need to speak to the same officer that provided the packet or web site to you. The Police Officer will look over all of your documentation and make sure everything is in order.

### **Obtain a police report number from the Falls Church Police**

After you obtain this number, you will go before a magistrate from the 17<sup>th</sup> Judicial District Magistrate's Office located at 2020 North 15th Street Arlington, VA 22201, (703) 228-3961. The Falls Church Police also have a video link to the 17<sup>th</sup> Judicial District Magistrate's Office and that may be used.

If the magistrate finds probable cause with your case, a warrant will be issued and the paperwork from the magistrate's office will be forwarded to the Falls Church City Clerk of the Court. The Falls Church City Clerk of the Court will send the warrant to the Falls Church Police for service. If service is successful, a court date will be set for a trial date in the Falls Church General District Court.

Please remember to retain all the evidence for your case. This evidence will be the check, a copy of the five-day letter, postal receipts, and any other documentation you have regarding the case.

All misdemeanor case hearings are held in the Falls Church General District Court, 300 Park Avenue, beginning at 9:30 a.m. on Wednesdays. You and any witnesses you may have should arrive at 9:00 a.m. when the city attorney reviews the cases. If a bad check was given to a delivery person, the delivery person must appear in court. Again remember to bring all evidence for your case. If you cannot be present in court, a request for continuing the case must be requested from the city attorney at least 24 hours prior to the court date.



## Procedure for Felony Bad Checks Checks valued over \$200.00



If you received a bad check for **more than \$200.00**, it is a felony. If you wish to criminally prosecute the case you are legally obligated to proceed with the case even if payment is received prior to the court date.

Please follow the check list below and re-contact the Falls Church Police Department when the check list is complete.

### Five Day letter sent

You must send the enclosed 5 day letter by certified or registered mail, return receipt requested to the address of the check's maker or drawer on the front of the check. Even if you know another address for the check writer that may be correct, it must be sent to the address listed on the check. This letter will serve as sufficient notice that a bad check has been presented. Additionally it is considered notice to the maker or drawer of the addressee if such notice is returned undelivered.

If the check is a "starter" check and is not printed with the account holder's name and address, **someone must sign** the acknowledging receipt of the notice at the address given.

### Wait five full days after the notice is delivered.

If the payment is received, the matter ends here. However, do not relinquish the original check if only part of the payment is made or when the payment is in the form of another check. If you wish to pursue this case criminally **DO NOT ACCEPT** a partial payment.

### Contact the Falls Church Police Criminal Investigations Division

Now that you have all of the proper documentation, call the Falls Church Police, Criminal Investigations Division at 703-248-5053 and make an appointment with a Detective. The Detective will take a police report for your case and conduct the follow-up investigation. All evidence for the case will be retained by the Detective investigating the case. This evidence will be the check, a copy of the five-day letter, postal receipts, and any other documentation you have regarding the case.

## Sample Copy of a Five-Day Letter

Date: \_\_\_\_\_

To: \_\_\_\_\_  
(name)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(address)

I hereby give you notice that a check # \_\_\_\_\_, presented to \_\_\_\_\_  
(business)

dated the \_\_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (yr), drawn by you on the \_\_\_\_\_

\_\_\_\_\_ Bank

\_\_\_\_\_ in the amount of \_\_\_\_\_, has been dishonored by  
(city, state)

non-payment.

Unless the amount due thereon, together with interest % \_\_\_\_\_ (You must put in the interest rate that will not exceed 8%) and protest fees \$ \_\_\_\_\_ (You must put in protest fees here) is not paid to the holder within five days after the receipt of this notice, such legal action as may be necessary will be taken.

Signature \_\_\_\_\_  
(holder of check)

**CRIMINAL COMPLAINT**  
Commonwealth of Virginia

RULES 3A:3 AND 7C:3

Print ALL information clearly:

- General District Court
- Juvenile and Domestic Relations District Court

Under penalty of perjury, I, the undersigned Complainant swear or affirm that I have reason to believe that the Accused committed a criminal offense, on or about

..... in the  City  County  Town

DATE OFFENSE OCCURRED

of.....

I base my belief on the following facts:

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

The statements above are true and accurate to the best of my knowledge and belief.

- In making this complaint, I have read and fully understand the following:
- By swearing to these facts, I agree to appear in court and testify if a warrant or summons is issued.
- The charge in this warrant cannot be dismissed except by the court, even at my request

.....  
 NAME OF COMPLAINANT (LAST, FIRST, MIDDLE)  
 (PRINT CLEARLY)

Subscribed and sworn to before me this day.

.....  
 DATE AND TIME

CLERK  MAGISTRATE  JUDGE

SIGNATURE OF COMPLAINANT

**CRIMINAL COMPLAINT**

ACCUSED: Name, Description, Address/Location

.....  
 LAST NAME, FIRST NAME, MIDDLE NAME

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN MO. DAY YR.	HT. FT. IN.	WGT.	EYES	HAIR

SSN