

Theft and Fraud Offenses Ordinance

An ordinance to prohibit theft and fraud offenses and to establish the penalties for their commission.

THE CHARTER TOWNSHIP OF MADISON ORDAINS:

Section 1. Theft and Fraud Offenses

It shall be unlawful for any person to commit any of the following acts which are which are deemed crimes punishable as hereinafter provided:

Section 2. Larceny

A person shall not commit the offense of larceny, by stealing, converting or wrongfully withholding the property of another, including but not limited to any money, goods, chattels or services; or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate; or any book of accounts for or concerning money or goods due or to become due or to be delivered; or any deed or writing containing a conveyance of land; or any valuable contract in force; or any receipt, release or defeasance, or any writ, process or public record.

Section 3. Unlawful Procurement of Library or Literary Society Materials

A person shall not procure or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript, exhibit, disc recording, cassette or other electronic or mechanical reproduction, film, filmstrip, puzzle, puppet, and any other materials that the library may own, whether or not the materials are circulated for public use, or any part of any of the above, with intent to defraud the owner thereof, or having procured or taken any such book, pamphlet, chart, map, painting, picture, photograph, periodical, newspaper, magazine, manuscript, exhibit, disc recording, cassette or other electronic or mechanical reproduction, film, filmstrip, puzzle, puppet, and any other material that the library may own, whether or not the materials are circulated for public use, or any part thereof, to thereafter convert the same to his own use or fraudulently to deprive the owner thereof.

Section 4. Receiving Stolen Goods

- a. A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing , or having

reason to know or reason to believe, that the money, goods, or property is stolen, embezzled, or converted.

- b. A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

Section 5. Fraudulent Procurement of Food or Lodging

- a. A person shall not stop, put up, board or lodge at any boardinghouse as a guest or boarder by the day, week or month, or to procure any food, entertainment or accommodation without paying therefor, unless there is a distinct and express agreement made by such person with the owner, proprietor or keeper of such boardinghouse for credit, with intent to defraud such owner, proprietor or keeper out of the pay for such board, lodging, food, entertainment or accommodations, or for any person, with intent to so defraud to obtain credit at any boardinghouse for such board, lodging, food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto. No conviction shall be had under the provisions of this subsection unless complaint shall be made within ten (10) days of the time of the violation thereof.
- b. A person shall not put up at any hotel, motel, inn, restaurant or café as a guest or to procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or for any person with intent to defraud such keeper out of the pay therefor to obtain credit at any hotel, motel, inn, restaurant or café for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto. No conviction shall be had under the provisions of this subsection unless complaint is made within sixty (60) days of the time of the violation hereof.
- c. A person shall not obtain food, lodging or accommodation by false pretense or by false or fictitious show of baggage or other property, or refusal or neglect to pay therefor on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of the intent to defraud mentioned in subsections (1) and (2).

Section 6. Nonsufficiently Funded Checks

- a. A person shall not 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 with intent to defraud and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.
- b. A person shall not 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 with intent to defraud if the person does not have sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy, or other lawful cause and that fact was not known to the person when the person made, drew, uttered, or delivered the check, draft, or order.

Section 7. False Pretenses with Intent to Defraud

A person shall not, with intent to defraud or cheat, designedly, by color or any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by any other false pretense, cause any person to grant, convey, assign, demise, or lease any written instrument, the making whereof would be punishable as forgery, or obtain from any person any money or personal property or the use of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measure obtain a larger amount or quantity or property other than was bargained for, or by means of any false weights or measures sell or dispose of a less amount or quantity or property than was bargained for, if such and/or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of shall be the value of one hundred dollars (\$100.00) or less.

Section 8. Obtaining Credit by False Device

A person shall not knowingly obtain or attempt to obtain credit, or purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious or counterfeit credit card, credit number, telephone number or other credit device, or by the use of any credit card, without the authority of the person to whom such card, number or device was issued, or by the use of any credit card, credit number, telephone number, or other credit card, credit number or device which has been revoked and notice or revocation has been given to the person to whom issued. As used herein, the word "credit," shall 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.

Section 9. Retail Fraud

A person shall not:

- a. Alter, transfer, remove and replace, conceal, or otherwise misrepresent the price at which merchandise is offered for sale, with the intent not to pay for the merchandise or to pay less than the full retail value.
- b. Steal merchandise of the store that is offered for sale.
- c. With intent to defraud, obtain or attempt to obtain money or property from a retail store as a refund or exchange for merchandise which was not paid for as belonging to the retail store.
- d. Remove a shopping cart from the premises of a retail store without the consent of the merchant at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart.

Section 10. Violation; Penalties

- a. Any person who commits an offense prohibited by this ordinance shall, upon conviction thereof, be guilty of a misdemeanor and subject to a penalty not to exceed \$500.00 or imprisonment in the county jail for a period not to exceed 93 days, or both such fines and imprisonment, plus the actual cost of prosecution.
- b. Any person who causes, secures, aids or abets another person to commit an offense prohibited by the ordinance may be prosecuted; and any conviction thereof shall be punished as if the person aiding and abetting had directly committed such violation.
- c. Any person who shall attempt to commit an offense prohibited by this ordinance and, in such attempt, shall do any act towards the commission of such offense, but shall fail in the perpetration or shall be intercepted or prevented in the execution of the same, shall be guilty of a misdemeanor, and subject to a penalty not to exceed \$250.00 or imprisonment in the county jail for a period not to exceed 45 days, or both such fines and imprisonment, plus the actual cost of prosecution.

Section 11. Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

Section 12. Repeal and Replacement of Ordinance 20.

This ordinance repeals and replaces, in its entirety, the Retail Fraud Ordinance adopted by the Township on April 30, 1991.

Section 13. Name and Number Designation

This ordinance shall be known as the "Theft and Fraud Offenses Ordinance" and shall be designated as Ordinance 20 of the ordinances of the Charter Township of Madison.

Section 14. Publication and Effective Date

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in a newspaper circulating within the Charter Township of Madison, which insertion shall be made within thirty (30) days after its passage. This ordinance shall take effect immediately upon its publication.

YEAS: () _____

NAYS: () _____

ABSENT: () _____

Ordinance declared adopted on January 13, 2009.

Lawrence Richardson
Township Supervisor for the
Charter Township of Madison

CERTIFICATION OF ADOPTION AND PUBLICATION

I, Arnold Harper, the duly elected Township Clerk, certify that the foregoing ordinance was properly enacted by the township board of the Charter Township of Madison, Lenawee County, Michigan on January 13, 2009 and that it was published in the Adrian Daily Telegram on February 23, 2009.

Arnold Harper
Township Clerk for the
Charter Township of Madison