

**CITY OF ALBION
ORDINANCE #2012-07**

AN ORDINANCE TO CREATE THE OFFENSE OF CHECKS WITHOUT SUFFICIENT FUNDS, 58-39.

Purpose and Finding:

Michigan law provides for the crime of checks without sufficient funds, in MCL 750.131, et seq. The City of Albion does not currently have an ordinance specific to this offense, and to date offenses of this type have been referred to the county for prosecution. It is in the interests of the City of Albion to have an ordinance for this offense to protect and the public at large. This ordinance would allow the City of Albion to enforce NSF check offenses where the amount payable is \$100.00 or less.

THE CITY OF ALBION ORDAINS:

Sec. 58-39. CHECKS WITHOUT SUFFICIENT FUNDS

1. 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.
2. 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.
3. If the amount payable in the check, draft, or order is less than \$100.00, a person who violates this section, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
4. Evidence of intent to defraud, etc.—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 fees, within 5 days after receiving notice that such check, draft or order has not been paid by the drawee.

5. Notice of protest as evidence of intent to defraud, etc.—Where such check, draft or order is protested, on the ground 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 of knowledge of insufficient funds or credit with such bank or other depository.

6. Credit construed—The word “credit” as used herein, 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.

(State Law Reference: MCL 750.131, et. seq)

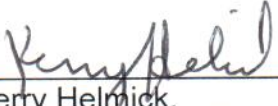
This Ordinance shall take effect after publication and on March 21, 2012.

First Reading:
February 06, 2012

Second Reading & Adoption:
February 21, 2012

Ayes 7
Nays 0
Absent 0

Ayes 7
Nays 0
Absent 0



Kerry Helmick,
Finance Director/Clerk/Treasurer



Joe Domingo
Mayor