

ORDINANCE NO. 09.04.200

**AN ORDINANCE ESTABLISHING CHECK FRAUD AS
UNLAWFUL IN THE TOWN OF ENCAMPMENT,
CARBON COUNTY, WYOMING.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF
ENCAMPMENT, CARBON COUNTY, WYOMING:**

WHEREAS, the Governing Body of the Town of Encampment has determined that it is in the best interest of the citizens of the Town to have an ordinance which makes check fraud unlawful within the municipal limits of the Town of Encampment; and,

WHEREAS, the Governing Body of the Town of Encampment is authorized by WYO. STAT. § 1-15-103(a) (xli) to protect the health, safety and welfare of the citizens of the Town.

NOW THEREFORE, be it ordained by the governing body of the Town of Encampment, Carbon County, Wyoming that Ordinance No. 09.04.200 prohibiting check fraud and establishing it a misdemeanor offense in the Town of Encampment, be and the same is hereby created and shall read as follows after passage and publication:

CHECK FRAUD

Section 1. Definitions.

(a) As used in this article:

- (i) "Check" means a written unconditional order to pay a sum certain in money drawn on a bank payable on demand and signed by the drawer;
- (ii) "Knowingly issues" means issuing a check to obtain property or to pay a debt with intent to defraud or deceive any other person;
- (iii) "Drawee" means the bank or purported bank upon which a check is drawn;
- (iv) "Drawer" means a person either real or fictitious whose name appears on a check as the primary obligor whether the actual signature is that of himself or of a person authorized to draw the check in his behalf;
- (v) "Insufficient funds" means when the drawer issues a check from the drawee and has no checking account with the drawee or has funds or credit in a checking account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance. A check

dishonored for "no account", "account closed" or "nonsufficient funds" shall also be deemed to be dishonored for "insufficient funds";

(vi) "Issue" means make, draw, deliver or pass a check.

Section 2. Fraud by Check; penalties.

(a) Any person who knowingly issues a check which is not paid because the drawer has insufficient funds or credit with the drawee has issued a fraudulent check and commits fraud by check.

(b) Fraud by check is:

(i) A misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both, if the fraudulent check was for a sum of less than one thousand dollars (\$1,000.00).

Section 3. Prima facie evidence of intent that check not to be paid; evidence of knowledge of account balance.

(a) Any of the following is prima facie evidence that the person at the time he issued the check or other order for the payment of money intended that it should not be paid:

(i) Proof that at the time of issuance he did not have an account with the drawee;

(ii) Proof that at the time of issuance he did not have sufficient funds with the drawee and that he failed to pay the check or other order within five (5) days after receiving notice of nonpayment or dishonor, personally given or sent to the address shown on the check or other order; or

(iii) Proof that when presentment was made in a reasonable time the issuer did not have sufficient funds with the drawee and he failed to pay the check or other order within five (5) days after receiving notice of nonpayment or dishonor, personally given or sent to the address shown on the check or other order.

(b) Proof the drawer opened an account with the drawee on a certain date shall be considered evidence of the drawer's knowledge of the account balance on that date.

Section 4. Acquirer of right to check with insufficient funds may file complaint; deferred prosecution or probation and restitution on checks.

(a) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, may file a complaint under this act whether or not he is the payee, holder or bearer of the check.

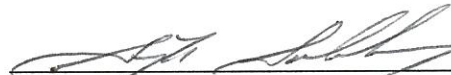
(b) If deferred prosecution or probation is ordered, the court as a condition of supervision shall require the defendant to make restitution in an amount not to exceed twice the amount of the dishonored check on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

Section 5. Liberal construction. This ordinance shall be liberally constructed so as to further its purposes.

PASSED, ADOPTED AND APPROVED this 28 day of June, 2012.


TOWN OF ENCAMPMENT
a Wyoming Municipal Corporation

By:



Greg Salisbury, Mayor

ATTEST:



Doreen Harvey, CMC, Clerk/Treasurer

First Reading: May 24, 2012

Second Reading: June 14, 2012

Third and Final Reading: June 28, 2012