

**STATE OF NEW MEXICO  
COUNTY OF SIERRA  
ORDINANCE NO. 19-019**

**AN ORDINANCE RELATING TO PROMOTION OF ECONOMIC DEVELOPMENT  
AND COMMERCE BY REGULATION OF CERTAIN INVOLUNTARY PAYMENTS  
REQUIRED OF EMPLOYEES IN SIERRA COUNTY**

**WHEREAS**, the Sierra County Board of Commissioners met upon notice of meeting duly published at the Albert J. Lyon Event Center, 2953 S. Broadway, T or C, New Mexico 87901 on January 22, 2019, as required by law; and,

**WHEREAS**, the Board of County Commissioners of Sierra County is the duly-elected governing body of Sierra County; and

**WHEREAS**, NMSA 1978, § 4-37-1 provides the power to the county to make and publish ordinances to provide for the health and safety of its inhabitants; and,

**WHEREAS**, NMSA 1978, § 4-37-2 provides that county ordinances are effective within the boundaries of the county, including privately owned land or land owned by the United States; and,

**WHEREAS**, on July 17, 2018, the Board of County Commissioners directed the publication of the title and general subject matter of this Ordinance, in accordance with NMSA 1978, Section 4-37-7; and,

**WHEREAS**, notice of the meeting at which the public hearing would be held and final action would be taken was published on January 4<sup>th</sup>, 8<sup>th</sup>, in the Sierra County Sentinel, KCHS Radio and posted on the Sierra County website; and,

**WHEREAS**, it is the intent of this Ordinance to provide that no employee covered by the National Labor Relations Act need join or pay dues to a union, or refrain from joining a union, as a condition of employment; and provide certain penalties for violation of those employment rights; and

**WHEREAS**, public employees, such as teachers, first responders and county employees are not covered by the National Labor Relations Act, and therefore are not affected by this ordinance;

**WHEREAS**, certain employers in the construction trades have expressed that "hiring halls" run by the construction trades provide certain benefit to them by facilitating hiring qualified employees, agreements with those employers to hire employees referred through those hiring halls is not prohibited by this ordinance;

**WHEREAS**, the County of Sierra County desires to promote growth and economic development within the unincorporated legal boundaries of the County, directly and in cooperation with public and private entities promoting Sierra County and its resources, its people and its many geographical and cultural advantages; and

**WHEREAS**, Sierra County and its residents compete for the expansion of employment opportunities with other cities, counties and states whose citizens have adopted similar right to work legislation; and

**WHEREAS**, pursuant to the New Mexico Constitution, this Body is tasked with and empowered to enact ordinances of local self-governance, including for the protection and convenience of the public, to encourage local commerce; and protect the rights and well-being of its citizens, and

**WHEREAS**, this Board echoes the sentiments and finds tyrannical the practice of compelling employees to furnish contributions of money for the propagation of opinions which they disbelieve; and

**WHEREAS**, we hereby find and determine that it is in the best interest of the citizens of Sierra County to promote and encourage the growth of products, services and employment opportunities to its citizens, and for the protection and convenience of the public and the expansion of the tax base, that we should protect employees' right to choose employment without restraint or coercion, regarding the payment of mandatory dues, fees or other payments to a labor organization as a condition of that employment.

**NOW THEREFORE, BE IT ORDAINED BY COUNTY OF SIERRA COUNTY, STATE OF NEW MEXICO, THAT NO EMPLOYEE WITHIN THE UNINCORPORATED BOUNDARIES OF THE COUNTY WHO IS COVERED BY THE NATIONAL LABOR RELATIONS ACT NEED JOIN OR PAY DUES TO A UNION, OR REFRAIN FROM JOINING A UNION, AS A CONDITION OF EMPLOYMENT; AND CERTAIN PENALTIES SHALL BE PROVIDED FOR VIOLATION OF THOSE EMPLOYMENT RIGHTS:**

**Section 1. Authority.** This Ordinance is enacted pursuant to the authority granted to this body by the New Mexico Constitution, as a political subdivision of the State, in accordance with the laws set forth in the New Mexico Revised Statutes and the laws of the United States of America. Specifically, this Ordinance is adopted pursuant to both the United States and New Mexico Constitutions and the general welfare and police powers conferred upon the County of Sierra by NMSA 1978 §§ 4-37-1 et seq. The intent of this Ordinance is to be applied in the unincorporated boundaries of Sierra County.

**Section 2. Declaration of public policy.** It is hereby declared to be the public policy of Sierra County to ensure individual freedom of choice in the pursuit of employment, to protect and advance the convenience of its citizens who desire the broadest choice of employment

opportunities, to permit its citizens to choose to increase their real take home pay by decreasing mandatory payroll deductions to stimulate savings and economic growth, and to encourage an employment climate conducive to the promotion of the County to locate, expand and maintain large and small businesses for economic development, growth and preservation of the community... The right to work shall not be subject to undue restraint or coercion, and shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

**Section 3. Terms.** The terms “employee,” “employer,” “labor organization,” and “person” as used in this Ordinance shall have the same meanings as defined by the National Labor Relations Act, 29 U.S.C. §§ 151 et seq.

**Section 4. Freedom of choice guaranteed, discrimination prohibited.** No person covered by the National Labor Relations Act shall be required as a condition of employment or continuation of employment:

- (A) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
- (B) to become or remain a member of a labor organization;
- (C) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization; or
- (D) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization.

**Section 5. Coercion and intimidation prohibited.** It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee’s or prospective employee’s parents, spouse, children, grand-children, or any other persons residing in the employee’s or prospective employee’s home, or by any damage or threatened damage to an employee’s or prospective employee’s property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or otherwise forfeit any rights as guaranteed by provisions of this Ordinance. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.

**Section 6. Penalties.** Anyone violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$300.00 or confinement in a County detention facility for a period not exceeding 90 days, or both such fine and confinement.

**Section 7. Right of Enforcement; Other Remedies.**

The County, any individual aggrieved by a violation of this Ordinance, or any entity the members of which have been aggrieved by a violation of this Ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this section and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, a refund of the dues, fees, assessments, or other charges, and an additional amount as liquidated damages equal to twice the amount of any dues, fees assessments or other charges assessed in violation of this Ordinance, injunctive relief, and reasonable attorney's fees and costs.

**Section 8. Prospective application.** The provisions of this Ordinance shall apply to all contracts entered into after the effective date of this Ordinance by employers and labor organizations for application to employees within the unincorporated boundaries of Sierra County, and shall apply to any renewal or extension of any existing contract. Nothing in this Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, §19.

**Section 9. Effective date.** This Ordinance proposed for adoption shall take effect 30 days upon approval by the Sierra County Board of County Commissioners.

**Section 10. Severability clause.** If any provision of this Ordinance, or the application thereof to any person, entity or circumstances, shall be invalid or unenforceable to any extent, the remainder of this Ordinance, and the application of such provision to other person, entities or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**Section 11. Repealer clause.** All prior Orders, Resolutions or Ordinances or parts thereof, in conflict with this Ordinance are hereby repealed.

This Ordinance is adopted pursuant the powers granted to the County by the State of New Mexico, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary form pursuant to the laws of the State of New Mexico and the County of Sierra County.

APPROVED this the 22<sup>nd</sup> day of January, 2019.



Shelly K. Trujillo  
Shelly Trujillo, County Clerk

BOARD OF COUNTY COMMISSIONERS  
SIERRA COUNTY

Travis Day  
Travis Day, County Commissioner

Frances Luna  
Frances Luna, County Commissioner

APPROVED AS TO FORM:

James Paxon  
James Paxon, County Commissioner

David Pato  
David Pato, County Attorney