

**STATE OF NEW MEXICO
COUNTY OF SIERRA
ORDINANCE NO. 18-017**

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

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 its legal boundaries, 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 and its statutory charge, this Commission is expressly granted “those powers necessary and proper to . . . promote the prosperity and improve the . . . comfort and convenience of . . . its inhabitants;” and

WHEREAS, we hereby find and determine that it is in the best interest of the citizens of Sierra County to promote the prosperity of its citizens by encouraging the growth of products, services and employment opportunities to its citizens, by permitting its citizens the option to determine how to spend the money that they earn, 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 THE COUNTY OF SIERRA COUNTY THAT NO EMPLOYEE WITHIN THE UNINCORPORATED PART OF THE COUNTY COVERED BY THE NATIONAL LABOR RELATIONS ACT BE REQUIRED TO JOIN OR PAY DUES TO A UNION, OR BE PROHIBITED 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 the Board by the New Mexico Constitution and by the Legislature, 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. The Sierra County Board of Commissioners (the “Commission”) is authorized to adopt this ordinance pursuant to the New Mexico Constitution and NMSA 1978 §§ 4-37-1 et seq. The intent of this Ordinance is to be applied within the unincorporated boundaries of the County.

Section 2. Declaration of public policy. It is hereby declared to be the public policy of Sierra County that the right to work shall not be subject to undue restraint or coercion and that the right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization. The County expressly recognizes that mandatory payroll deductions for labor organizations diminishes its citizen’s rights to determine how to spend the money that they earn. It is the further policy of Sierra County to protect the individual freedom of choice in the pursuit of employment without being required to give up a portion of their income to a non-governmental organization. It is the further policy of Sierra County to encourage an employment climate conducive to the promotion of the County to locate, expand or maintain large and small businesses for the economic development, growth and preservation of the community, including recruiting new businesses to the community.

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; or

Section 5. Voluntary deductions protected. It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer, unless the employee has expressly waived such right of revocation in the express terms of an otherwise lawful “dues check-off” card. In the event of an ambiguity in the meaning of the dues check off language, the burden of proving notice, and assent shall be on the party seeking enforcement of the dues check off agreement.

Section 6. Agreements in violation, and actions to induce such agreements, declared illegal. Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as guaranteed by provisions of this Ordinance is hereby declared to be unlawful, null and void, and of no legal effect.

Section 7. Coercion and intimidation prohibited. It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer, agent or member thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee’s or prospective employee’s parents, spouse, children, grandchildren, 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 8. 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 9. 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 the County, and shall apply to any renewal or extension of any existing contract.

Section 10. Effective date. This Ordinance proposed for adoption shall take effect 30 days upon approval by the Sierra County Board of County Commissioners.

Section 11. 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 12. Repealer clause. All prior Orders, Resolutions or Ordinances or parts thereof, in conflict with this Ordinance are hereby repealed.

Section 13. Effective Date. This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the Board of County Commissioners. The effective date of this Ordinance shall be thirty (30) days after the Ordinance has been recorded.

APPROVED this the _____ day of _____, 20____.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SIERRA COUNTY

Shelly Trujillo, County Clerk

Ken Lyon, Chair

Frances Luna, Vice Chair

Sherry Fletcher, Member

APPROVED AS TO FORM:

David Pato
County Attorney