

SIERRA COUNTY

DIRECT DEPOSIT

PASSED: _____, 2020

EFFECTIVE: _____, 2020



**SIERRA COUNTY
ORDINANCE 20-002**

AN ORDINANCE PROVIDING FOR THE AUTOMATIC DIRECT DEPOSIT OF SALARY OR WAGES INTO EMPLOYEE’S ACCOUNTS

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, County Administration has requested that the County undertake the cost-saving effort by paying those who choose to work for it by electronic means; and,

WHEREAS, while private employers may only use direct deposit with the voluntary authorization of an employee pursuant to NMSA 1978, Section 50-4-2 (1993), the Attorney General has made clear that Section 50-4-2 is not applicable to public employers; and,

WHEREAS, NMSA 1978, Section 10-7-2 was amended to permit the Department of Finance and Administration to promulgate rules requiring the automatic direct deposit of salary or wages into an employee’s account; and,

WHEREAS, NMSA 1978, Section 6-10-63 provides that, “[n]otwithstanding any other provision of law, any public money may be transferred by means of electronic funds transfer between any public body and a public or private entity.”

NOW, THEREFORE, BE IT ORDAINED by the Sierra County Board of Commissioners as follows:

**SECTION I
SHORT TITLE**

This Ordinance shall be known as the “DIRECT DEPOSIT ORDINANCE” and shall be referred to herein as “this Ordinance”.

SECTION II AUTHORITY

2.1 This Ordinance is enacted pursuant to the authority granted to counties to provide for the safety and to preserve the health of the residents of the county as set forth in NMSA 1978 4-37-1 (1975).

SECTION III INTERPRETATION, CONFLICT AND WORD CONSTRUCTION

3.1 INTERPRETATION & CONFLICT. The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid Ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other County Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other County ordinances or resolutions, the provisions of this Ordinance shall be controlling. To the extent not otherwise defined herein, the terms of this Ordinance are defined by, and construed in accordance with Section 77-1A-2 (2005) and, more generally, Chapter 77 NMSA 1978 and Section 7.4.2.14 NMAC 2018.

3.2 WORD CONSTRUCTION. The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.

SECTION IV DEFINITIONS

4.1 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Direct Deposit The electronic transfer of a payment directly from the account of the County to the recipient’s account at a bank of recipient’s choice.

SECTION V DIRECT DEPOSIT OF PAYMENTS; EXEMPTIONS

5.1 All full time, casual, and temporary employees and elected public officials who receive compensation from the County of Sierra are mandated to have direct deposit of

their compensation as of July 1, 2020. County employees and elected public officials may request, in writing, an exemption from the direct deposit mandate to the County Manager. Such requests shall be presented to the Board of County Commissioners within thirty (30) days. The Board of County Commissioners may grant such an exemption by resolution and only for good cause.

**SECTION VI
SEVERABILITY**

5.1 If any article, section, subsection, paragraph, sentence, clause, phrase, provision or portion of any article, section, subsection, paragraph, sentence, clause, phrase or provision in this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portion shall not be affected since it is the express intention of the Sierra County Board of County Commissioners to pass such article, section, subsection, paragraph, sentence, clause, phrase or provision and every part thereof separately and independently from every other part.

**SECTION VI
EFFECTIVE DATE**

6.1 This Ordinance shall be recorded and authenticated by the Sierra County Clerk following adoption by the Board of County commissioners. The effective date of this Ordinance shall be thirty days after the Ordinance has been recorded.

APPROVED, ADOPTED, AND PASSED on this 16th day of June 2020.

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SIERRA**

James Paxon, Chairman

Travis Day, Vice-Chair

Frances Luna, Commissioner

Attest:

Shelly K. Trujillo

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