

CITY OF ESPAÑOLA

ORDINANCE 2021-04

AN ORDINANCE ESTABLISHING CREDIT GIVEN TO MUNICIPAL COURT DEFENDANTS WHO PERFORM COMMUNITY SERVICE THROUGH THE ESPAÑOLA MUNICIPAL COURT'S COMMUNITY SERVICE PROGRAM.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ESPAÑOLA, NEW MEXICO:

SECTION I.

This Ordinance may be cited as the City of Española Community Service Credit Program.

SECTION II

- A. The Española Municipal Court shall be required to give defendants, who perform community service in lieu of payment of all or part of the assessed fines, fees, or costs owed to the court, credit at the prevailing rate of the State of New Mexico's hourly minimum wage.
- B. Credit at the prevailing rate of the State of New Mexico's hourly minimum wage shall be given for community service in lieu of fines, fees, or costs imposed under, but not limited to, the following laws, rules and ordinances:
 - a. the New Mexico Rules of Procedure for Municipal Courts;
 - b. the New Mexico Uniform Traffic Ordinance adopted by the City of Española;
 - c. ordinances adopted by the City of Española under Ordinance Chapter 305 Vehicles and Traffic; and
 - d. misdemeanor violations enumerated in the ordinances of the City of Española.

SECTION III

- A. The Española Municipal Court shall not be required nor shall the Court give credit at any rate to defendants who perform community service mandated by law as a part of their sentence. As an example, and for clarification purposes only, New Mexico's Uniform Traffic Ordinance, section 12-6-12.2 regarding "OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS: PENALTIES: SENTENCING: FEES., Subsection (C) provides and reads in part, "upon a first conviction pursuant to this section, an offender shall be sentenced to not less than 24 hours of community service...."
- B. The Española Municipal Court shall not be required nor shall the Court give credit at any rate to defendants who perform community service pursuant to the City of Española's Ordinance, Article I, Section 1-20(D.) It reads in part: "The Municipal Court may, as a condition of probation, require the defendant to serve a period of time in volunteer labor to be known as "community service." The type of labor and period of service shall be at the sole discretion of the court...."

SECTION IV

- A. This Community Service Credit Program shall apply retroactively to previously adjudicated cases, as well as pending cases to be adjudicated, where such application is authorized under the laws of the State of New Mexico, the ordinances of the City of Española, and the Rules of Procedure for the Municipal Courts.

SECTION V SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions hereof.

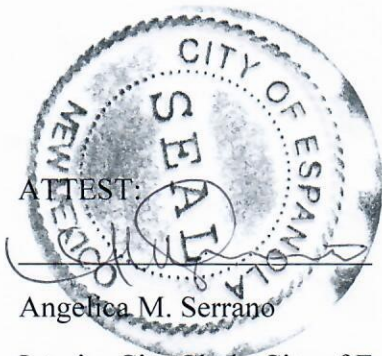
SECTION VI ORDINANCES REPEALED

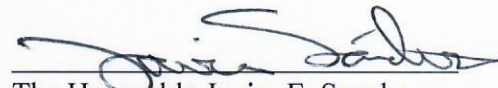
All ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed only to the extent of such inconsistency.

SECTION VII EFFECTIVE DATE

This ordinance shall be effective upon its adoption and publication as provided by law.

ADOPTED AND APPROVED by the Governing Body of the City of Española. This 13 Day of July, 2021.




The Honorable Javier E. Sanchez
Mayor, City of Española