

ORDINANCE NO. _____

VILLAGE OF LINCOLNSHIRE, ILLINOIS

AN ORDINANCE ON ECONOMIC DEVELOPMENT AND WORKER EMPOWERMENT BY REGULATION OF INVOLUNTARY PAYROLL DEDUCTIONS FOR PRIVATE SECTOR WORKERS IN THE VILLAGE OF LINCOLNSHIRE

WHEREAS, the Village of Lincolnshire, Lake County, Illinois (the "Village"), is a municipal corporation and Home Rule unit by referendum pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, and as such may exercise any power or perform any function pertaining to its government and affairs, the powers and functions of which shall be construed liberally; and

WHEREAS, Mayor and Council of the Village of Lincolnshire find that fostering a commercially competitive environment to maintain a stable, diverse tax base in the Village and the promotion of job growth for the Village's residents pertain to the government and affairs of the Village of Lincolnshire; and

WHEREAS, it is the intent of this Ordinance to protect individual choice and worker freedoms such that in the Village of Lincolnshire, no employee covered by the National Labor Relations Act ("NLRA") shall be compelled to 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, the Village of Lincolnshire and its residents compete for employment opportunities and business development with other municipalities and states whose citizens benefit from similar worker freedom legislation; and

WHEREAS, as of September, 2015 the State of Illinois has 200,000 fewer Illinoisans working compared to before the Great Recession, the worst employment recovery of any state in the U.S., necessitating local policy solutions that will attract businesses, manufacturers and investors and thus provide more plentiful opportunities for the residents of Illinois and Lincolnshire; and

WHEREAS, a recent poll of CNBC's Global Council of CFOs revealed that two-thirds of CFOs polled consider a Right-to-Work law to be either "important" or "very important" when they decide where to invest and locate new facilities; and

WHEREAS, the NLRA authorizes the State of Illinois and Home Rule units of government to prohibit compulsory union membership and dues payments for employees choosing not to join a union; and

WHEREAS, Article VII, Section 6(i) of the Illinois Constitution provides that:

(i) Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive;

WHEREAS, with respect to the regulation of compulsory union dues payments for employees governed by the NLRA, the General Assembly has neither specifically limited the concurrent exercise of authority by Home Rule units, nor declared the State's exercise to be exclusive; and

WHEREAS, the Village of Lincolnshire will not be represented by the Ancel Glink law firm on this issue and will be represented by the Liberty Justice Center on a pro bono basis; and

WHEREAS, the Mayor and Council of the Village of Lincolnshire hereby find and determine that it is in the best interest of the public health safety and welfare of the residents of the Village of Lincolnshire to promote and encourage direct labor commerce by giving employees the freedom 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 Mayor and Council of the Village of Lincolnshire, Lake County, Illinois, in the exercise of its Home Rule authority as follows:

SECTION 1: RECITALS

The foregoing recitals are incorporated into, and made a part of, this Ordinance as if fully set forth in this section 1.

SECTION 2: DEFINITIONS

The terms “employee,” “employer,” “labor organization,” and “person” as used in this Ordinance shall have the same meanings as defined by the NLRA.

SECTION 3: AUTHORITY

This Ordinance is enacted pursuant to the City’s Home Rule authority under Article VII, Section 6 of the Constitution of the State of Illinois.

SECTION 4: GUARANTEE OF EMPLOYEE RIGHTS

No person covered by the NLRA shall be required as a condition of employment or continuation of employment with a private-sector employer:

- (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;
- (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
- (E) to be recommended, approved, referred, or cleared for employment by or through a labor organization.

SECTION 5: VOLUNTARY DEDUCTIONS PROTECTED.

For employers located in the Village, 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.

SECTION 6: IMPLIED AGREEMENTS PROHIBITED.

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, 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 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.

Any person who violates this Ordinance shall be guilty of a Class A misdemeanor, punishable by fine or imprisonment as set forth in section 5-4.5-55 of the Illinois Unified Code of Corrections, 730 ILCS 5/5-4.5-55.

SECTION 9: CIVIL REMEDIES.

Any individual harmed as a result of any violation or threatened violation of the provisions of this Ordinance shall have a civil cause of action to enjoin further violations, and to recover the actual damages sustained, together with the cost of the lawsuit, including a reasonable attorney's fee. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this Ordinance.

To the extent that the law applicable to the forum in which any civil enforcement proceeding is brought under this section 9 provides that a Home Rule unit is not authorized to legislate an award of attorneys fees via an ordinance, then the attorney's fees provision of this section shall be of no force and effect in such forum.

SECTION 10: PROSPECTIVE APPLICATION.

The provisions of this Ordinance shall apply to all collective bargaining agreements and employment agreements entered into after the effective date of this ordinance by employers, employees and/or labor organizations covering non-governmental employees

within this Village, and shall apply to any renewal or extension of any existing collective bargaining agreements and employment agreements covering non-governmental employees within this Village made after the effective date of this Ordinance.

SECTION 11: SEVERABILITY.

If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 12: CONFLICTING VILLAGE COUNCIL ACTIONS.

The specific terms of this Ordinance shall supersede any portion of the Lincolnshire Municipal Code or any ordinance, resolution or motion of the Village Council adopted prior to and the terms of which conflict with this Ordinance.

SECTION 14: HEADINGS.

The headings of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

SECTION 15: PUBLICATION IN PAMPHLET FORM.

The Village Clerk is directed to publish this Ordinance in pamphlet form.

SECTION 16: EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon its passage, approval and publication, in the manner provided by law.

Passed this ____ day of _____, 2015.

Approved this ____ day of _____, 2015.

Mayor

ATTEST:

Village Clerk

AYES:

NAYS:

ABSENT:

Published in pamphlet form: _____, 2015