

**COUNCIL BILL NO. 18-008**  
**ORDINANCE NO. 2832**

**AN ORDINANCE AMENDING CHAPTER 14. HUMAN RIGHTS, ARTICLE III. MINIMUM WAGE, SECTION 14-62. MINIMUM WAGE PAYMENT REQUIREMENTS. OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED, RELATED TO IMPLEMENTATION DATES.**

The City Council is informed that:

**WHEREAS**, Ordinance 2715 was adopted on June 2, 2014 establishing the City's first minimum wage ordinance and incorporated as a new Article III to the Human Rights Chapter of the Las Cruces Municipal Code (LCMC), 1997, as amended; and

**WHEREAS**, Ordinance 2715 included provisions for the timing of implementation of the phased increases to both regular and tipped minimum wages were outlined, along with future increases tied to the consumer price index and/or cost of living increases. In summary, this established: 1) \$8.00 per hour minimum wage, \$2.13 per hour for tipped wages, effective January 1, 2015; 2) \$8.50 per hour minimum wage, \$2.13 per hour for tipped wages, effective January 1, 2016; 3) Effective January 1, 2017 and every year thereafter, not to exceed 3% increase for cost of living; and 4) City Council review on June 2016 and every 4 years thereafter; and

**WHEREAS**, Ordinance 2726 was adopted on September 8, 2014 related to establishing the minimum wage ordinance. In summary, this established: 1) \$8.40 per hour minimum wage, tipped wages were to be 40% of the minimum wage, effective January 1, 2015; 2) \$9.20 per hour minimum wage, tipped wages were to be 50% of the minimum wage, effective January 1, 2016; 3) \$10.10 per hour minimum wage, tipped wages were to be 60% of the minimum wage thereafter, effective January 1, 2017; 4) Effective January 1, 2018 and every year thereafter, indexed increases tied to the

Consumer Price Index; and 5) nothing was specified related to City Council review of the minimum wage; and

**WHEREAS**, Ordinances 2715 and 2726 resulted in two minimum wage ordinances that created conflicts within LCMC and required further action and this was corrected by the actions of Ordinance 2740 and 2741; and

**WHEREAS**, Ordinance 2740 repealed Ordinance 2715 in its entirety on December 1, 2014; and

**WHEREAS**, Ordinance 2741 was adopted on December 1, 2014 and amended only portions of Ordinance 2726, specific to amending Sections 14-62 (b), (d), and (f) and Section 14-64 of LCMC. By amending Section 14-62(b), the minimum wage implementation schedule was as follows: 1) \$8.40 per hour minimum wage, effective January 1, 2015; 2) \$9.20 per hour minimum wage, effective January 1, 2016; and 3) \$10.10 per hour minimum wage, effective January 1, 2017. By amending Section 14-62(d), all tipped wages were set to be 40% of the hourly minimum wage for implementation. By amend Section 14-62(f), the Ordinance established City Council review schedules of July 1, 2015; July 1, 2016; and July 1, 2018. Section 16-42 (c) was not amended and this left the first increase with an effective date of January 1, 2018 tied to the Consumer Price Index (CPI). Section 16-64 was amended to add wording to include unpaid wages and interest thereon for anyone pursuing recover of unpaid minimum wages; and

**WHEREAS**, the first CPI indexed increase is to take effect on January 1, 2018 while the last phased, scheduled increase is for January 1, 2019 to \$10.10 per hour per Ordinance 2741 and it is believed that the indexing should take effect after that last

phased increase; therefore, it is proposed to amend the minimum wage ordinance to move that indexing by amending Section 14-62 (c) to delay that to January 1, 2020.

**NOW, THEREFORE,** Be it ordained by the governing body of the City of Las Cruces:

**(I)**

**THAT** Section 16-42 of Article III. Minimum Wage of Chapter 14. Human Rights of the Las Cruces Municipal Code, 1997, as amended, is hereby amended as shown in Exhibit "A" attached hereto and made part of this Ordinance.

**(II)**


**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED** this 4 day of December, 2017.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)

Moved by: Smith

Seconded by: Gandara

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Gandara:	<u>Aye</u>
Councillor Smith:	<u>Aye</u>
Councillor Vasquez:	<u>Aye</u>
Councillor Eakman:	<u>Aye</u>
Councillor Sorg:	<u>Aye</u>
Councillor Flores:	<u>Aye</u>

Sec. 14-62. - Minimum wage payment requirements.

- (a) All employers shall pay all employees no less than the minimum wage, and shall pay tipped employees no less than the tipped minimum wage, for each hour worked within the municipal limits of the city, as provided in this section.
- (b) Beginning on January 1, 2015, the minimum wage shall be an hourly rate of \$8.40 an hour; beginning on January 1, 2017, the minimum wage shall be an hourly rate of \$9.20 an hour; and beginning on January 1, 2019, the minimum wage shall be an hourly rate of \$10.10 an hour.
- (c) Beginning January 1, 2020, and on January 1 of each year thereafter, the minimum wage provided for under this ordinance shall be adjusted by the increase, if any, in the cost of living. The increase in the cost of living shall be calculated based on the percentage increase, if any, as of August of the immediately preceding year over the level as measured by August of the previous year of the Consumer Price Index (All Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) for the West Region or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase, if any, rounded up to the nearest five cents. The City or its designee shall publish the adjusted minimum wage rate for the forthcoming year on its internet home page by October 15 of each year, and it shall become effective on January 1 of the forthcoming year. The minimum wage shall not be reduced if the Consumer Price Index has decreased during any applicable year.
- (d) A tipped employee shall be paid no less than the following tipped minimum wage: Beginning January 1, 2015, 40 percent of the minimum wage required in subsection (b) as of that date.
- (e) An employee shall not be required to work more than 40 hours in any week of seven days unless the employee is paid the higher of one and one half times the employee's regular hourly rate of pay or one and one half times the minimum wage as provided in subsection (b), for all hours worked in excess of 40 hours. Tipped employees shall be paid the higher of their average hourly wage, including tips, for the previous 40 hours worked, or one and one half times the minimum wage as provided in subsection (b).
- (f) The city council will meet on or before July 1, 2015, July 1, 2016, and July 1, 2018, to determine if there should be any change in the minimum wage.

Sec. 14-62. - Minimum wage payment requirements.

- (a) All employers shall pay all employees no less than the minimum wage, and shall pay tipped employees no less than the tipped minimum wage, for each hour worked within the municipal limits of the city, as provided in this section.
- (b) Beginning on January 1, 2015, the minimum wage shall be an hourly rate of \$8.40 an hour; beginning on January 1, 2017, the minimum wage shall be an hourly rate of \$9.20 an hour; and beginning on January 1, 2019, the minimum wage shall be an hourly rate of \$10.10 an hour.
- (c) Beginning January 1, 2018~~20~~, and on January 1 of each year thereafter, the minimum wage provided for under this ordinance shall be adjusted by the increase, if any, in the cost of living. The increase in the cost of living shall be calculated based on the percentage increase, if any, as of August of the immediately preceding year over the level as measured by August of the previous year of the Consumer Price Index (All Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) for the West Region or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase, if any, rounded up to the nearest five cents. The City or its designee shall publish the adjusted minimum wage rate for the forthcoming year on its internet home page by October 15 of each year, and it shall become effective on January 1 of the forthcoming year. The minimum wage shall not be reduced if the Consumer Price Index has decreased during any applicable year.
- (d) A tipped employee shall be paid no less than the following tipped minimum wage: Beginning January 1, 2015, 40 percent of the minimum wage required in subsection (b) as of that date.
- (e) An employee shall not be required to work more than 40 hours in any week of seven days unless the employee is paid the higher of one and one half times the employee's regular hourly rate of pay or one and one half times the minimum wage as provided in subsection (b), for all hours worked in excess of 40 hours. Tipped employees shall be paid the higher of their average hourly wage, including tips, for the previous 40 hours worked, or one and one half times the minimum wage as provided in subsection (b).
- (f) The city council will meet on or before July 1, 2015, July 1, 2016, and July 1, 2018, to determine if there should be any change in the minimum wage.

## Minimum Wage Ordinance - Summary

Ordinance No.	2715	2726	2740	2741 *
Adoption Date	June 2, 2014	September 8, 2014	December 1, 2014	December 1, 2014
<b>Minimum Wage Amount, Tipped minimum wage &amp; Effective Dates:</b>				
Phase 1: <i>Min. Wage</i>	\$8.00 per hour	\$8.40 per hour	N/A – repealing ordinance	\$8.40 per hour
<i>Tipped Wage</i>	\$2.13 per hour, must meet hourly minimum (\$8.00/hour by combining tipped wage and tips)	40% of minimum wage		Tipped = 40% of minimum wage
<i>Effective Date</i>	January 1, 2015	January 1, 2015		January 1, 2015
Phase 2: <i>Min Wage</i>	\$8.50 per hour;	\$9.20 per hour	N/A – repealing ordinance	\$9.20 per hour
<i>Tipped Wage</i>	\$2.13 per hour, must meet hourly minimum (\$8.50/hour by combining tipped wage and tips);	50% of minimum wage		Tipped = 40% of minimum wage
<i>Effective Date</i>	January 1, 2016	January 1, 2016		January 1, 2017
Phase 3: <i>Min. Wage</i>	N/A – see indexing	\$10.10 per hour	N/A – repealing ordinance	\$10.10 per hour
<i>Tipped Wage</i>		60% of minimum wage & thereafter		Tipped = 40% of minimum wage
<i>Effective Date</i>		January 1, 2017		January 1, 2017
<b>CPI Indexing/ COLA</b>	January 1, 2017 & every year thereafter, not to exceed 3%, no reduction if CPI decreases	January 1, 2018 & every year thereafter, tied to CPI	N/A – repealing ordinance	January 1, 2018 effective date
<b>Council Review</b>	June 2016 & every 4 years	N/A	N/A – repealing ordinance	July 1, 2015; July 1, 2016; & July 1, 2018
<b>Ordinance Status</b>	Inactive - Repealed by Ordinance 2740	Active – Partially updated by Ordinance 2741	Inactive – repealed Ordinance 2715	Active

\* Ordinance 2741 only amended certain sections (specifically §14-62 and §14-64) related to: 1) §14-62(b) - dates and amounts of minimum wage; 2) §14-62(d) setting tipped wage equal to 40% of minimum wage; and 3) §14-64(f) establishing subsection related to Council review dates. **§14-62(c) was not amended and is whereby the CPI indexing and date of January 1, 2018 is established.** §16-64 was amended to include additional wording after "recover" to include "unpaid wages and interest thereon"



# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 4 Ordinance/Resolution# 2832

For Meeting of November 20, 2017  
(Ordinance First Reading Date)

For Meeting of December 4, 2017  
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** AN ORDINANCE AMENDING CHAPTER 14. HUMAN RIGHTS, ARTICLE III. MINIMUM WAGE, SECTION 14-62. MINIMUM WAGE PAYMENT REQUIREMENTS. OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED, RELATED TO IMPLEMENTATION DATES.

**PURPOSE(S) OF ACTION:**

Amend the Municipal Code related to minimum wage.

<b>COUNCIL DISTRICT: ALL</b>		
<b>Drafter/Staff Contact:</b> David P. Dollahon	<b>Department/Section:</b> Administration/Office of the City Manager	<b>Phone:</b> 541-2078
<b>City Manager Signature:</b>	<i>David P. Dollahon Acting for CM Stuart C. Ed</i>	

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

Attachment A to this Council Packet contains a chart outlining the ordinances and schedules for implementation to the City's minimum wage increases by ordinance for the City Council's reference, in addition to the narrative immediately following.

Ordinance 2715 was adopted on June 2, 2014 related to adoption of the City's first Minimum Wage Ordinance and incorporated within the Human Rights Chapter of the Las Cruces Municipal Code (LCMC), 1997, as amended, creating a new Article III. Within this ordinance provisions for the timing of implementation of the phased increases to both regular and tipped minimum wages were outlined, along with future increases tied to the consumer price index and/or cost of living increases. In summary, this ordinance established:

- 1) \$8.00 per hour minimum wage, \$2.13 per hour for tipped wages, effective January 1, 2015;
- 2) \$8.50 per hour minimum wage, \$2.13 per hour for tipped wages, effective January 1, 2016;
- 3) Effective January 1, 2017 and every year thereafter, a not to exceed 3% increase for cost of living; and
- 4) City Council review on June 2016 and every 4 years thereafter.

Ordinance 2726 was adopted on September 8, 2014 related amending the minimum wage ordinance. In summary, this ordinance established:

(Continue on additional sheets as required)

- 1) \$8.40 per hour minimum wage, tipped wages were to be 40% of the minimum wage, effective January 1, 2015;
- 2) \$9.20 per hour minimum wage, tipped wages were to be 50% of the minimum wage, effective January 1, 2016;
- 3) \$10.10 per hour minimum wage, tipped wages were to be 60% of the minimum wage thereafter, effective January 1, 2017;
- 4) Effective January 1, 2018 and every year thereafter, indexed increases tied to the Consumer Price Index; and
- 5) Nothing was specified related to City Council review of the minimum wage.

Ordinances 2715 and 2726 resulted in two minimum wage ordinances that created conflicts within the Municipal Code and required further action by City Council. This was corrected by the actions of Ordinance 2740 and 2741 as follows:

Ordinance 2740 repealed Ordinance 2715 in its entirety on December 1, 2014.

Ordinance 2741 was also adopted on December 1, 2014 and amended only portions of Ordinance 2726, specific to amending Sections 14-62 (b), (d), and (f) and Section 14-64.

By amending Section 14-62(b), the minimum wage implementation schedule was as follows:

- 1) \$8.40 per hour minimum wage, effective January 1, 2015;
- 2) \$9.20 per hour minimum wage, effective January 1, 2016; and
- 3) \$10.10 per hour minimum wage, effective January 1, 2017.

By amending Section 14-62(d), all tipped wages were set to be 40% of the hourly minimum wage for implementation. By amend Section 14-62(f), the Ordinance established City Council review schedules of July 1, 2015; July 1, 2016; and July 1, 2018.

**Please note, Section 16-42 (c) was not amended and this left the first increase with an effective date of January 1, 2018 for the increases tied to Consumer Price Index (CPI).** Section 16-64 was amended to add wording to include unpaid wages and interest thereon for anyone pursuing recover of unpaid minimum wages. Therefore, City staff issued the notice through the City Manager's newsletter to increase the City's Minimum Wage on January 1, 2018 by the CPI of 2.78% from \$9.20 per hour to \$9.45 per hour.

This Ordinance, as presented, proposes to correct Section 14-62 (c) delaying the indexing increase to January 1, 2020.

#### **SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A" –revised Section 14-62.
3. Attachment "A" – Section 14-62 shown in legislative format.
4. Attachment "B" – Historical summary of minimum wage ordinances in Las Cruces (Ordinances 2715, 2726, 2740, and 2741).



**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the (# and Fund Name) Fund.
Does this action create any revenue?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: (Fund #) in the amount of \$_____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A
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**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will amend the City's minimum wage ordinance to delay the implementation of the Consumer Price indexing component from the current January 1, 2018 to January 1, 2020.
2. Vote "No"; this will not amend the City's minimum wage ordinance related to the implementation of the Consumer Price indexing component and leave it with the current January 1, 2018 effective date.
3. Vote to "Amend"; this could be based on direction of the City Council to Staff.
4. Vote to "Table"; this could be based on direction of the City Council to Staff but may have implications to the business community to implement the change to indexing of the minimum wage.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

(Continue on additional sheets as required)

1. Ordinance 2715.
2. Ordinance 2726.
3. Ordinance 2740.
4. Ordinance 2741.



## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of November 20, 2017  
(Ordinance First Reading Date)

For Meeting of December 4, 2017  
(Adoption Date)

**TITLE:** AN ORDINANCE AMENDING CHAPTER 14. HUMAN RIGHTS, ARTICLE III. MINIMUM WAGE, SECTION 14-62. MINIMUM WAGE PAYMENT REQUIREMENTS. OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED, RELATED TO IMPLEMENTATION DATES.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes  No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/David P. Dollahon		x-2078	11/9/2017
Department Director			
Budget		x-2107	11/10/17
Assistant City Manager /William F. Studer, Jr.		x-2506	11-13-17
Assistant City Manager/David P. Dollahon		x- 2078	11/14/2017
City Attorney		x- 2047 <sup>10</sup>	11/14/17
City Clerk		x-2116	11-15-17

## Legal Advertising Affidavit

Angel McKellar, who, being duly sworn as the Advertising Assistant of the Las Cruces BULLETIN, a weekly newspaper of general distribution published in the City of Las Cruces, County of Doña Ana, State of New Mexico, disposes and states that the legal advertising for

### **CITY OF LAS CRUCES CITY ATTORNEY**

In the matter of:

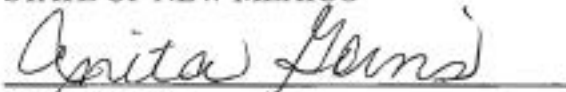
**NOTICE OF ADOPTION-(1) Council Bill No. 18-008; Ordinance 2832:**

In accordance with the laws of the State of New Mexico, the attached was published in its entirety 1 time(s) in the Las Cruces BULLETIN, the first publication date being 12/08/2017 and subsequent publications being: , , .

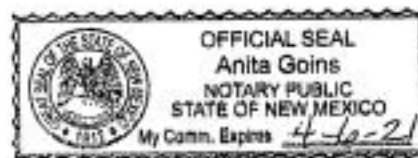
  
Angel McKellar

Sworn to and subscribed  
before me this day 12/08/2017

in the  
CITY OF LAS CRUCES  
COUNTY OF DOÑA ANA  
STATE OF NEW MEXICO

  
Notary Public

Advertising Costs: \$40.31



# LAS CRUCES SUN-NEWS

## PROOF OF PUBLICATION

I, being duly sworn, Rynni Henderson deposes and says that she is the President of Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the 1225206 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated December 10, 2017, the last publication was December 10, 2017. Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

President  
Official Position

## STATE OF NEW MEXICO

ss.

County of Dona Ana

Subscribed and sworn before me this

2<sup>nd</sup> day of January 2018

Notary Public in and for  
Dona Ana County, New Mexico

September 16, 2020  
My Term Expires



## NOTICE OF ADOPTION

The City Council of the City of Las Cruces, New Mexico, Hereby Gives Notice of Its Adoption of the Following Ordinance(s) at the Regular City Council Meeting Held on December 4, 2017:

- (1) Council Bill No. 18-008; Ordinance 2832: An Ordinance Amending Chapter 14. Human Rights, Article III. Minimum Wage, Section 14-62, Minimum Wage Payment Requirements of the Las Cruces Municipal Code (LCMC), 1997, as Amended, Related to Implementation Dates.

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 5th day of December, 2017.

Linda Lewis, CMC

City Clerk  
Pub#1225206  
Run Date: Dec. 10, 2017

