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# City of Las Cruces®

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## Council Action and Executive Summary

Item # 28 Ordinance/Resolution# 2780

For Meeting of April 4, 2016  
(Ordinance First Reading Date)

For Meeting of May 2, 2016  
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL

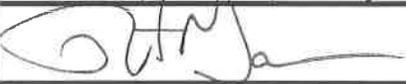
LEGISLATIVE

ADMINISTRATIVE

**TITLE:** AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

**PURPOSE(S) OF ACTION:**

Approve revisions to LCMC.

<b>COUNCIL DISTRICT:</b> N/A		
<b>Drafter/Staff Contact:</b> Marcia B. Driggers	<b>Department/Section:</b> Legal/City Attorney	<b>Phone:</b> 541-2128
<b>City Manager Signature:</b>		

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

LCMC, Section 2-1347 entitled "Water Acquisition and Management Fund," authorizes the addition of \$0.11 per billing unit to each customer's monthly water bill. The fund is internally divided into two (2) subparts. \$0.06 of the \$0.11 is used for water acquisition costs as set forth in Section 2-1347(b) and \$0.05 of the \$0.11 is used for water management costs as set forth in Section 2-1347(c). Staff proposes changes for the following reasons:

Combining the two (2) subparts into one, thus allowing the previously separated, authorized expenditures in Sections 2-1347(b) and (c) to be paid from the proposed combined fund:

1. This change recognizes that the City Utilities Department (Department) on behalf of the City of Las Cruces (City) is no longer actively buying or leasing water rights or water allotments or buying or leasing land for water rights or water allotments as currently authorized in Section 2-1347(b)(1) and (2). Historically these have been the major expenditures from subpart (b). the Department continues to pay the Elephant Butte Irrigation District (EBID) assessments and administrative expenses to EBID and the Office of the State Engineer as provided in Section 2-1347(b)(3) but, without the buying or leasing expenditures, the subpart (b) fund balance continues to accrue without benefit to the Department or to City water utility customers;

(Continue on additional sheets as required)

2. Adds a new authorized expenditure for lobbying expenses: This recognizes that it is often advisable for the City to use lobbyists with expertise in water rights matters who can work with the City's other lobbyists;
3. Adds another authorized expenditure to promote water conservation: This provides funding for water conservation programs to comply with the Office of the State Engineer requirements;
4. Changes the title of the section from "Water Acquisition and Management Fund" to "Water Rights Fund:" This more accurately reflects what the fund will be used for; and
5. As proposed, the ordinance as presented would repeal and replace the specific section due to the extensive proposed changes; thus making the changes less confusing rather than through multiple amendments.

**SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", proposed replacement LCMC, Section 2-1347, entitled "Water Rights Fund."
3. Attachment "A", Existing LCMC, Section 2-1347, entitled "Water Acquisition and Management Fund," shown in legislative format.

**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 _____ Fund.
Does this action create any revenue?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ 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 action will approve the Ordinance repealing the existing LCMC, Section 2-1347, entitled "Water Acquisition and Management Fund," and enacting replacement LCMC, Section 2-1347, entitled "Water Rights Fund."
2. Vote "No"; this action will keep existing LCMC, Section 2-1347 in effect.
3. Vote to "Amend"; this action would allow the City Council to modify provisions of replacement LCMC, Section 2-1347.
4. Vote to "Table"; this action would allow the City Council to table or postpone consideration of the Ordinance and to direct staff accordingly.

**REFERENCE INFORMATION:**

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

N/A



# City of Las Cruces<sup>®</sup>

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## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of April 4, 2016  
(Ordinance First Reading Date)

For Meeting of May 2, 2016  
(Adoption Date)

**TITLE:**

AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>[Signature]</i>	541-2128	3/2/2016
Department Director	<i>[Signature]</i>	541-2128	3/9/16
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2107	3-11-2016 3-10-2016
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	3/11/16
City Attorney	<i>[Signature]</i>	541-2128	9 MAR 2016
City Clerk	<i>[Signature]</i>	541-2115	3-22-16

COUNCIL BILL NO. 16-021  
ORDINANCE NO. 2780

AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

The City Council is informed that:

**WHEREAS**, LCMC, Section 2-1347 entitled "Water Acquisition Management Fund," authorizes the addition of \$0.11 per billing unit to each customer's monthly water bill. The fund is internally divided into two (2) subparts. \$0.06 is used for water acquisition costs as set forth in Section 2-1347(b) and the remaining \$0.05 is used for water management costs as set forth in Section 2-1347(c); and

**WHEREAS**, staff proposes changes to LCMC, Section 2-1347 for the following reasons:

1. Combining the two (2) subparts into one and allowing the previously separated, authorized expenditures set forth in Sections 2-1347(b) and (c) to be paid from one proposed, combined fund; thus recognizing that the Las Cruces Utilities Department (Department) on behalf of the City of Las Cruces (City) is no longer actively buying or leasing water rights or water allotments or buying or leasing land for water rights or water allotments as currently authorized in Section 2-1347(b)(1) and (2);

2. Adds a new authorized expenditure for lobbying expenses; thus recognizing that it is often advisable for the City to use lobbyists with expertise in water rights matters who can work with the City's other lobbyists;

3. Adds another authorized expenditure to promote water conservation; thus providing funding for water conservation programs to comply with the Office of the State Engineer's requirements;

4. Changes the title of the section from "Water Acquisition and Management Fund" to "Water Rights Fund" to more accurately reflect what the fund will be used for; and

**WHEREAS**, the Las Cruces Utilities Board recommended in Las Cruces Utilities Board Resolution No. 15-16-LCU017 that the City Council repeal LCMC, Section 2-1347, and enact replacement LCMC, Section 2-1347 as set forth above.

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

**(I)**

**THAT** existing LCMC, Section 2-1347 in its entirety is hereby repealed.

**(II)**

**THAT** LCMC, Section 2-1347, as shown on Exhibit "A," attached hereto and made a part of this Ordinance, is hereby enacted.

**(III)**

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

**DONE AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

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

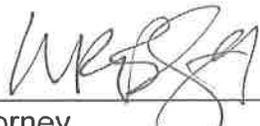
(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

VOTE:  
Mayor Miyagishima: \_\_\_\_\_  
Councillor Gandara: \_\_\_\_\_  
Councillor Smith: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Eakman: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Levatino: \_\_\_\_\_

APPROVED AS TO FORM:

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

Sec. 2-1347. - Water rights fund.

- (a) A water rights fund formerly known as the water acquisition and management fund is hereby established. The fund shall be funded primarily by an \$0.11 per billing unit fee added to each customer's monthly water bill. Expenditures from the fund shall be limited to the following purposes:
- (1) Purchase or lease of water rights or water allotments;
  - (2) Purchase or lease of land for water rights or water allotments;
  - (3) Payments for annual Elephant Butte Irrigation District water assessments and for administrative expenses to Elephant Butte Irrigation District and the Office of the State Engineer such as application fees;
  - (4) Legal opinions regarding suitability of water rights or water allotments for purchase or lease;
  - (5) Legal expenses related to any litigation that may affect the ability of the city to acquire, use or retain water rights or water allotments;
  - (6) Engineering or technical expenses related to any litigation that might affect the ability of the city to acquire, use or retain water rights or water allotments;
  - (7) Lobbying expenses related to legislation that might affect the ability of the City to acquire use or retain water rights or water allotments; and
  - (8) Developing, promoting, and funding water conservation programs to comply with the Office of the State Engineer's requirements and water rights conditions.
- (b) Other fund revenue may include payment for water rights upon development in accordance with sections 2-1341 through 2-1346 of this Code and as amended.

- **Sec. 2-1347. - ~~Water acquisition and management fund~~ rights fund.**

(a) ~~A water acquisition and management rights fund formerly known as the water acquisition and management fund~~ is hereby established. The fund shall be funded primarily by an \$0.11 per billing unit fee added to each customer's monthly water bill. ~~The fund shall internally be divided into two subparts. One part shall be used for water acquisition costs and one part shall be used for water management costs.~~ Expenditures from the fund shall be limited to the following purposes:

~~(b) — The fee for water acquisition costs shall be \$0.06 per billing unit. A billing unit is 1,000 gallons. Expenditures from this part of the fund shall be made for the following purposes:~~

- (1) Purchase or lease of water rights or water allotments;
- (2) Purchase or lease of land for water rights or water allotments; and
- (3) Payments for annual Elephant Butte Irrigation District water assessments and for administrative expenses to Elephant Butte Irrigation District and the office of the state engineer such as application fees;

~~(c) The fee for the water management costs shall be \$0.05 per billing unit. A billing unit is 1,000 gallons. Expenditures from this part of the fund shall be made for the following purposes:~~

- ~~(4)~~ Legal opinions regarding suitability of water rights or water allotments for purchase or lease;
- ~~(5)~~ Legal expenses related to any litigation that may affect the ability of the city to acquire, use or retain water rights or water allotments; and
- ~~(6)~~ Engineering or technical expenses related to any litigation that might affect the ability of the city to acquire, use or retain water rights or water allotments;
- ~~(7)~~ Lobbying expenses related to legislation that might affect the ability of the city to acquire use or retain water rights or water allotments; and
- ~~(8)~~ Developing, promoting, and funding water conservation programs to comply with the office of the state engineer's requirements and water rights conditions.

~~(db)~~ Other fund revenue may include payment for water rights upon development in accordance with sections 2-1341 through 2-1346 of this Code and as amended.