

ORDINANCE NO. 2757

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING SECTION 14.12.010 OF CHAPTER 14.12 OF TITLE 14 (WATER) OF THE
MUNICIPAL CODE RELATING TO WATER RATES AND CHARGES

City Attorney's Summary

This Ordinance amends Section 14.12.010 of the Garden Grove Municipal Code to modify the commodity adjustment imposed on customers of the City's Water Enterprise to reflect unanticipated increases in wholesale water costs; and to authorize future rate adjustments for a period not to exceed five (5) years to reflect adopted increases or decreases in wholesale charges for water established by other public agencies from which the City purchases water.

THE CITY COUNCIL FINDS AND DECLARES AS FOLLOWS:

WHEREAS, the City of Garden Grove provides water service to its customers;
and

WHEREAS, pursuant to Section 14.12.010 of the Garden Grove Municipal Code, the City Council imposes rates and charges on water customers to fund ongoing operational costs of the Water Enterprise and to pay for future capital improvements needed to meet future demands on the water system; and

WHEREAS, the cost to purchase water from other public agencies (i.e., water commodity costs) is a significant component of the operational costs of the Water Enterprise over which the City has limited control; and

WHEREAS, in 2007, the City Council adopted Ordinance No. 2713-A, amending Section 14.12.010 to modify the rates and charges imposed on customers of the City's Water Enterprise based on the recommendations set forth in the Water Rate Study prepared by Black & Veatch Corporation, to establish a commodity adjustment charge to reflect the increased water commodity costs known and anticipated at the time; and to provide for rate adjustments through 2012 for the minimum commodity charges for metered service and the total commodity delivery charges; and

WHEREAS, the City has subsequently learned that water commodity costs incurred by the City are anticipated to increase significantly more than reflected in the rates and charges adopted in 2007; and

WHEREAS, in 2007, Black & Veatch Corporation prepared a Water Rate Study on behalf of the City, which evaluated the Water Enterprise's financing and capital facilities needs, determined the estimated funds needed to adequately finance the operations, capital improvements, and debt obligations for the Water Enterprise, reasonably allocated the Water Enterprise's projected revenue requirements to the various customer classes in accordance with their respective service requirements, and recommended a suitable schedule of water rates that produce revenues

adequate to meet the Water Enterprise's financial needs in accordance with estimated reasonable customer costs of service; and

WHEREAS, Black & Veatch Corporation has prepared spreadsheets on behalf of the City (which are made a part of the public record of the Public Hearing), which supplement the 2007 Water Rate Study and calculate those increases in the City's water commodity costs anticipated to take effect September 1, 2009, which are not currently reflected in the rates adopted in 2007; and

WHEREAS, effective January 1, 2009, Government Code Section 53756 authorizes any agency providing water service to adopt a schedule of fees or charges for a period not to exceed five (5) years authorizing automatic adjustments that pass through increases or decreases in wholesale charges for water adopted by another public agency from which it purchases water; and

WHEREAS, the City Council has determined that the rates and charges for water usage set forth in Section 14.12.010 should be modified in accord with the findings and recommendations set forth in the 2007 Water Rate Study, the supplemental spreadsheets prepared by Black & Veatch Corporation, and the legislative findings herein, and that automatic adjustments to the commodity adjustment charge that pass through future increases in wholesale water charges should be authorized in order to adequately finance the operations, capital improvements and debt obligations for the Water Enterprise; and

WHEREAS, the City Council has determined the following with regard to the rates and charges for water usage established by this Ordinance: (i) the fees and charges are not imposed as a condition of approval of a development project, as defined in California Government Code section 66001; (ii) the fees and charges are established upon a rational basis between the fees charged each customer and the service and facilities provided to each customer of the City's Water Enterprise; (iii) the revenues derived from the fees and charges do not exceed the estimated reasonable cost to provide the capital facilities and water services for which they are levied; (iv) the revenues derived from the fees and charges shall not be used for any other purpose than that for which the fees and charges are imposed; (v) the fees and charges do not exceed the proportional cost of the water service attributable to each consumer; (vi) the fees and charges are imposed on water services which are immediately available to the consumer; (vii) the fees and charges are not levied for general governmental services; and (viii) the rates and charges are not discriminatory or excessive, are sufficient under Government Code section 54515, comply the provisions or covenants of any outstanding revenue bonds of the City payable from the revenues of the Water Enterprise, comply with the provisions of Title 5, Division 2, Chapter 6 of the California Government Code, and are in compliance with all other applicable law; and

WHEREAS, the City Council has determined that the authorization for automatic adjustments to the commodity adjustment charge provided for herein is

appropriate and represents increases in the rates and charges needed to adequately finance the operations, capital improvements, and debt obligations for the Water Enterprise for those years; and

WHEREAS, in accordance with Proposition 218 and Government Code Section 53755, Notice of a Public Hearing to consider the proposed adjustments in water rates and charges and containing such information required to be included pursuant to California law (the Proposition 218 Notice) was mailed to all record owners of affected property to the addresses as they appear on the latest equalized assessment roll and to all water service customers located on the affected parcels at the addresses to which the City customarily mails the billing statements; and

WHEREAS, on August 25, 2009, the City Council conducted the Public Hearing provided for in the Proposition 218 Notice, at which time the City Council heard all objections and protests to the proposed adjustments in water rates and charges; and

WHEREAS, written protests against the proposed adjustments in water rates and charges were not presented by a majority of the property owners, as the total number of properties on which the rates are imposed as shown on the last equalized assessment roll of Orange County totaled 36,892 and the City received a total of 163 protests; and

WHEREAS, pursuant to California Government Code section 66016 notice of the time and place of this hearing, including a general explanation of the matter to be considered and a statement that the data required by Government Code section 66016 has been available for public review at the City, was mailed to interested parties requesting notice at least fourteen (14) days prior to the hearing; and

WHEREAS, pursuant to California Government Code section 66016 the City made available to the public the Water Rate Study, the addendum, and other data documenting the estimated costs required to provide services for which the proposed modified rates and charges will be levied and the revenue sources anticipated to provide the services; and

WHEREAS, on August 25, 2009, in accordance with applicable legal requirements, the City Council conducted a duly noticed Public Hearing to consider the proposed adjustments in water rates and charges set forth herein, at which Public Hearing all those who wished to speak for or against the proposed adjustments in water rates and charges were heard; and

WHEREAS, the adoption of this Ordinance and the establishment of such rates and charges is statutorily exempt under the California Environmental Quality Act (CEQA) pursuant to the provisions of Public Resource Code section 21080(b)(8) and Section 15378 and Section 15273 of the CEQA Guidelines because, (i) the increased rates and charges are for the purpose of meeting operational and

maintenance expenses of the Water Enterprise, and (ii) the rates and charges constitute the creation of funding mechanism/other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN:

Section 1. Subsection (b) of Section 14.12.010 of Chapter 14.12 of Title 14 of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

"(b) Commodity Delivery Charge. The unit charge for metered services shall be:

UNITS OF WATER (1 UNIT = 100 CUBIC FT) ("hcf")	COMMODITY DELIVERY CHARGE (\$ per hcf)	COMMODITY ADJUSTMENT CHARGE (\$ per hcf)
0 - 36	\$1.48	\$0.46
37 - 250	\$1.54	\$0.46
251 - 500	\$1.60	\$0.46
> 500	\$1.65	\$0.46

Section 2. Subsection (f) is hereby added to Section 14.12.010 of Chapter 14.12 of Title 14 of the Garden Grove Municipal Code to read as follows:

(f) "Automatic Pass Through Adjustments for Purchased Water Costs.

- (1) Subject to City Council review and approval, the commodity delivery charge shall be automatically adjusted to reflect adopted increases or decreases in wholesale charges for water established by other public agencies from which the City of Garden Grove purchases water to the extent such increases or decreases are not reflected in the schedule of charges then in effect. Any such automatic adjustment shall be implemented through adjustment of the commodity adjustment charge. The amount of any such automatic adjustment shall be calculated by the Director of Finance, or his or her designee, and shall be approved by the City Council. Data documenting the amount of the increase or decrease in wholesale water costs and the basis for all adjustment calculations shall be made available to the public upon request.
- (2) The Finance Director shall cause notice of any automatic adjustment made pursuant to this subsection (f) to be given pursuant to subdivision (a) of Government Code Section 53755,

as it may be amended from time to time, and/or other applicable law, not less than thirty (30) days before the effective date of the adjustment.

- (3) Unless readopted pursuant Government Code Section 53756, as it may be amended from time to time, and/or other applicable law, the authority to make automatic adjustments pursuant to this subsection (f) shall expire five (5) years from the effective date of the ordinance adopting or readopting this subsection (f).

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words, or portions thereof be declared invalid.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the ____ day of _____.

ATTEST:

MAYOR

CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on August 25, 2009, with a vote as follows:

AYES: COUNCIL MEMBERS: (4) BROADWATER, JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (1) DO
ABSENT: COUNCIL MEMBERS: (0) NONE