

ORDINANCE NO. 2948

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING SECTIONS 14.12.010, 14.12.030, AND 14.12.050 OF CHAPTER 14.12 (RATES) OF TITLE 14 (WATER) OF THE MUNICIPAL CODE RELATING TO WATER RATES AND CHARGES, AND METER FAILURES

City Attorney's Summary

This Ordinance amends Sections 14.12.010, 14.12.030, and 14.12.050 of the Garden Grove Municipal Code to authorize, for a period of five (5) years, future adjustments in the Bi-Monthly Minimum Charge, Capital Improvement Charge, Commodity Delivery Charge, and Private Fire Service Charge of water rates and future automatic adjustments to reflect adopted increases or decreases in wholesale charges for water established by other public agencies from which the City purchases water. The Ordinance further makes a minor clarification to the provision pertaining to meter failures.

THE CITY COUNCIL FINDS AND DECLARES AS FOLLOWS:

WHEREAS, FG Solutions prepared a Water Rate Study on behalf of the City, which evaluated the Water Enterprise's financing 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;

WHEREAS, 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 established by another public agency from which it purchases water;

WHEREAS, the City Council has determined, based on the findings and recommendations of City Staff and FG Solutions and the legislative findings herein, that, in order to adequately finance the operations, capital improvements and debt obligations for the Water Enterprise, (i) annual adjustments to the Bi-Monthly Minimum Charge, the Capital Improvement Charge, Commodity Delivery Charge, and Private Fire Service Charge, set forth in Subsections (A), (B), and (C) of Section 14.12.010 and in Section 14.12.030 over a five (5) year period as recommended by FG Solutions should be authorized, and (ii) Subsection (F) of Section 14.12.010 should be re-adopted for automatic adjustments to the Commodity Delivery Charge for water usage that pass through future increases in wholesale water charges for a five (5) year period;

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 the Revenue Bond Law of 1941 (Government Code 54300-54700), and are in compliance with all other applicable law;

WHEREAS, the City Council has determined that the authorization of annual adjustments to the rates and charges for water usage 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;

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 City customers located on the affected parcels at the addresses to which the City customarily mails the billing statements;

WHEREAS, on November 28, 2023, 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;

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 37,600 and the City received a total of 34 protests;

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 is available for public review at the City, was mailed to interested parties requesting notice at least fourteen (14) days prior to the hearing;

WHEREAS, pursuant to California Government Code section 66016 the City made available to the public the Water Rate Study 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;

WHEREAS, on November 28, 2023, 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN:

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

14.12.010 – RATES AND CHARGES

The City of Garden Grove Water Division incurs ongoing operational costs, such as labor, commodities and contractual services in providing water service to the community. A water rate schedule is established to consist of a Bi-Monthly Minimum Charge and Commodity Delivery Charge to pay for the system operational and capital replacement costs. A Capital Improvements Charge is established to pay for future capital improvements needed to meet future demands on the system. Accordingly, the following rate structure is established for water usage:

- A. BI-MONTHLY MINIMUM CHARGE. The Bi-Monthly Minimum Charge for metered service shall be:

BIMONTHLY MINIMUM CHARGES					
Meter Size	1/11/24	1/1/25	1/1/26	1/1/27	1/1/28
5/8 x 3/4"	\$35.10	\$38.23	\$40.47	\$42.84	\$43.68
1"	\$54.54	\$61.54	\$65.77	\$70.29	\$72.39
1½"	\$87.28	\$100.39	\$107.95	\$116.05	\$120.24
2"	\$126.55	\$147.01	\$158.57	\$170.96	\$177.65
3"	\$231.29	\$271.34	\$293.55	\$317.38	\$330.77
4"	\$349.13	\$411.20	\$445.40	\$482.10	\$503.03
6"	\$676.44	\$799.72	\$867.20	\$939.66	\$981.52
8"	\$1,069.22	\$1,265.94	\$1,373.37	\$1,488.73	\$1,555.71
10"	\$1,592.92	\$1,887.56	\$2,048.26	\$2,220.83	\$2,321.29

- B. COMMODITY DELIVERY CHARGE. Subject to adjustment pursuant to Subsections (E), the unit charge for metered services shall be:

BI-MONTHLY COMMODITY DELIVERY CHARGES (\$ per hcf)					
	1/11/24	1/1/25	1/1/26	1/1/27	1/1/28
Tier 1	\$3.40	\$3.53	\$3.83	\$4.14	\$4.27
Tier 2	\$5.29	\$5.67	\$5.84	\$6.02	\$6.10

UNITS OF WATER (1 UNIT = 100 CUBIC FT) ("hcf") INCLUDED IN TIER 1 PER BILLING PERIOD	
METER SIZE	MAXIMUM hcf, TIER 1
5/8 x 3/4	33
1	83
1 1/2	165
2	264
3	528
4	825
6	1,650
8	2,640
10	3,960

- C. CAPITAL IMPROVEMENT CHARGE. The Bi-Monthly Capital Improvement Charge for services shall be:

<u>BI-MONTHLY CAPITAL IMPROVEMENT CHARGE</u>					
Meter Size	1/11/24	1/1/25	1/1/26	1/1/27	1/1/28
5/8 x 3/4"	\$7.45	\$7.92	\$8.43	\$8.97	\$9.20
1"	\$18.62	\$19.81	\$21.08	\$22.43	\$22.99
1 1/2"	\$37.24	\$39.62	\$42.16	\$44.85	\$45.98
2"	\$59.58	\$63.39	\$67.45	\$71.77	\$73.56
3"	\$119.16	\$126.79	\$134.90	\$143.53	\$147.12
4"	\$186.19	\$198.10	\$210.78	\$224.27	\$229.88
6"	\$372.37	\$396.21	\$421.56	\$448.54	\$459.76
8"	\$595.80	\$633.93	\$674.50	\$717.67	\$735.61
10"	\$893.70	\$950.89	\$1,011.75	\$1,076.50	\$1,103.41

- D. AUTOMATIC PASS-THROUGH ADJUSTMENTS FOR PURCHASED WATER COSTS.

- 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 Delivery Charge. The amount of any such automatic

adjustment shall be calculated by the Finance Director, or his designee, and shall be presented to the City Council for review. 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 (D) 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 (D) shall expire five (5) years from the effective date of the ordinance adopting or readopting this subsection (D).
- E. DETERMINATION OF WATER SUPPLY. The percent of water to be pumped and the percentage to be purchased shall be established by the Public Works Director prior to May 1st of each year, based on the basin production percentage assigned to the City of Garden Grove by the Orange County Water District.

Section 2. Section 14.12.030 of Chapter 14.12 (Rates) of Title 14 (Water) of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

14.12.030 – PRIVATE FIRE SERVICE

The bimonthly charge for private fire service protection shall be as follows:

BI-MONTHLY FIRE SERVICE RATE					
Meter Size	1/11/24	1/1/25	1/1/26	1/1/27	1/1/28
1-1/2"	\$3.42	\$3.84	\$4.09	\$4.35	\$4.46
2"	\$7.28	\$8.18	\$8.70	\$9.26	\$9.49
3"	\$21.16	\$23.77	\$25.29	\$26.91	\$27.58
4"	\$45.09	\$50.67	\$53.91	\$57.36	\$58.79
6"	\$130.97	\$147.17	\$156.59	\$166.61	\$170.78
8"	\$279.09	\$313.62	\$333.69	\$355.05	\$363.93
10"	\$501.90	\$564.01	\$600.11	\$638.52	\$654.48

Section 3. Section 14.12.050 of Chapter 14.12 (Rates) of Title 14 (Water) of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

14.12.050 - METER FAILURE

If a meter under registers and/or fails to register accurately during any period, the consumer shall be charged with an average daily consumption according to the season as shown by the meter when in use and registering accurately in the previous year.

Section 4. 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.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 12th day of December 2023.

/s/ STEVE JONES
MAYOR

ATTEST:

/s/ TERESA POMEROY, CMC
CITY CLERK

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

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on November 28, 2023, with a vote as follows:

AYES:	COUNCIL MEMBERS:	(6)	O'NEILL, TRAN, DOVINH, KLOPFENSTEIN, NGUYEN-PENALOZA, JONES
NOES:	COUNCIL MEMBERS:	(1)	BRIETIGAM
ABSTAIN:	COUNCIL MEMBERS:	(0)	NONE

and was passed on December 12, 2023, by the following vote:

AYES:	COUNCIL MEMBERS:	(6)	O'NEILL, TRAN, DOVINH, KLOPFENSTEIN, NGUYEN-PENALOZA, JONES
NOES:	COUNCIL MEMBERS:	(1)	BRIETIGAM
ABSTAIN:	COUNCIL MEMBERS:	(0)	NONE

/s/ TERESA POMEROY, CMC
CITY CLERK