

ORDINANCE NO. 1874

JOINT ORDINANCE AND RESOLUTION OF THE CITY OF GRAND JUNCTION AND THE COUNTY OF MESA, COLORADO (MCM80-50)

A JOINT ORDINANCE AND RESOLUTION ESTABLISHING THE PROCEDURE FOR DETERMINING AN EQUITABLE SYSTEM OF INDUSTRIAL COST RECOVERY CHARGES TO BE LEVIED ON ALL INDUSTRIAL USERS WHICH DISCHARGE WATERS AND WASTES TO THE WASTEWATER COLLECTION SYSTEM; AND PROVIDING PENALTIES FOR NONPAYMENT THEREOF; IN THE CITY OF GRAND JUNCTION AND COUNTY OF MESA, STATE OF COLORADO.

THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA JOINTLY ESTABLISH:

INDUSTRIAL COST RECOVERY

SECTION 1. PURPOSE.

A. The purpose shall be to recover the proportional share of the Federal Grant from industrial users of the wastewater system in accordance with the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and the Clean Water Act Amendments of 1972 (P.L. 95-217), wherein industrial users are required to make payments for that portion of the cost of construction of wastewater treatment works which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction.

B. This Joint Ordinance and Resolution will not be implemented nor will industrial cost recovery payments be collected until written direction is received by the City and County from the appropriate Federal agency.

SECTION 2. DEFINITIONS. For the purpose of this Joint Ordinance and Resolution, certain words and terms used herein are defined as follows:

A. BIOCHEMICAL OXYGEN DEMAND (BOD5): Means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20 deg) Centigrade, expressed in parts per million.

B. CITY: Means the City of Grand Junction, Mesa County, Colorado.

C. COUNTY: Means the County of Mesa, Colorado.

D. DIRECTOR: Means the Utilities Director of the City of Grand Junction, Colorado, or his authorized deputy or representative.

E. GRANTEE: Means the City of Grand Junction, and the County of Mesa, Colorado.

F. INDUSTRIAL COST RECOVERY: Is the recovery by the Grantee from

the industrial users of the grant amount allocable to capacity utilized by industrial users and funded by Federal grant monies.

G. INDUSTRIAL COST RECOVERY PERIOD: Is the period of time during which the Industrial Cost Recovery shall be collected and shall be thirty years beginning on January 1 of the year following startup of the specified facility for which Industrial Costs are recovered, or the useful life of the specified facility, whichever is less.

H. INDUSTRIAL USER:

1. Any nongovernmental, nonresidential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions:

Division A: Agricultural, Forestry, and Fishing

Division B: Mining

Division D: Manufacturing

Division E: Transportation, Communications, Electric, Gas and Sanitary Services

Division I: Services

2. Any nongovernmental user which discharges wastes containing toxic pollutants that contaminate sludge, interfere with any sewage treatment process, constitute a hazard to humans or animals, or that have adverse effects on the receiving stream.

3. Any commercial users of individual systems constructed with grant assistance under Section 201(h) of the Clean Water Act Amendments of 1977.

I. INDUSTRIAL WASTES: Mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

J. ORDINANCE: Means the Joint Ordinance and Resolution Numbers 1874 and 80-50, respectively, for Industrial Cost Recovery.

K. TOTAL SUSPENDED SOLIDS (TSS): Means the total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

SECTION 3. LIST OF INDUSTRIES. The City and County shall maintain

a complete list of all industrial users whose flows are treated by the City and County. The list shall include such information as identifying names, location, address, types of functions and processes, historical sewage flows and quality, method of determining flows and quality, and such other information as required by law. This list shall be updated at least annually.

SECTION 4. CLASSIFICATION AND DETERMINATION OF INDUSTRY'S WASTEWATER STRENGTHS.

A. For Industrial Cost Recovery purposes, the Director may require an industrial user to provide information needed to determine compliance with this Ordinance. These requirements may include:

1. Wastewaters discharge peak rate and volume over a specified time period.
2. Chemical analysis of wastewaters.
3. Information on raw materials, processes, and products affecting wastewater volume and quality.
4. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
5. A plot plan of sewers on the user's property showing sewer and pre-treatment facility location.
6. Details of wastewater pre-treatment facilities.
7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

B. When required by the Director, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

C. The City shall have the responsibility and duty to sample each industrial user within the system, at least annually, to determine the classification of the industry and, where appropriate, the strengths of user loadings and to index these findings. The City shall maintain a current list of these classifications and loading strengths.

Any party requesting modifications of the loading strengths of an industrial user shall submit such request in writing to the Director. The party that initiates such action shall support the

request for change with information concerning process change or sample data. Agreement on loading strengths of industries shall be reached by the party requesting change and/or the user and the Director.

D. For Industrial Cost Recovery purposes, wastewater strength shall be measured by the parameters: Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS).

E. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

SECTION 5. POWERS AND AUTHORITY OF INSPECTORS.

A. The Director and other duly authorized representatives of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the wastewater system in accordance with the provisions of this Ordinance.

B. While performing the necessary work on private properties, the Director or duly authorized representatives of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City representatives and the City shall indemnify the company against loss or damage to its property by City representatives and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

C. The Director shall enter upon the inspect the sewer system of any industry or any installation connected thereto, to take samples and to make tests, measurements, and analysis of sewage or other wastes introduced or to be discharged into the sewer systems of the City and County. The City shall maintain records of all for a minimum of five years.

D. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Director.

SECTION 6. DETERMINATION OF RATES OF RECOVERY.

A. Industrial Cost Recovery monies due the City and County shall

be assessed upon each industrial user connected, directly or indirectly, to the City's and County's system, based upon its contributions of flow and strength of loadings to those portions of the facilities supported by applicable Federal grant funds. The rates for each industrial user, at which recovered monies shall be collected, shall be based upon the design capacity of those specific facilities utilized by each industrial user as defined by the City, according to its pro-rata use of those specific facilities for which each grant has been isolated and that use has been measured by flow and loading characteristics.

B. The City shall identify and maintain an itemized list of those specific facilities to which the Industrial Cost Recovery Program shall apply. The City shall further identify those percentages of capital costs attributable to flow, BOD and TSS for each of those specific facilities. The list shall identify the total grant amount, the grant amount applicable to Industrial Cost Recovery and the date on which the specific facility was (or is expected to be) placed in operation. Funds shall be recoverable over the Industrial Cost Recovery Period.

C. Prior to December 31 of each year, the City shall review and determine the total dollar amount of each specific facility which could be recovered in the following calendar year. This shall be calculated as the sum of the recoverable grants on each specific facility divided by thirty. This amount shall be divided into three portions: flow related recoverable amount, BOD5 related recoverable amount, and TSS related recoverable amount.

The amount recoverable amount per facility shall equal the flow related recoverable amount plus the BOD5 related amount plus the TSS related recoverable amount.

The City shall then calculate unit rates for Industrial Cost Recovery for each specific facility in the following manner:

Unit Flow Rate = Flow related recoverable amount designed flow capacity of specific facility

Unit BOD5 Rate = BOD5 related recoverable amount designed BOD5 capacity of specific facility

Unit TSS Rate = TSS related recoverable amount design TSS capacity of specific facility

D. Any industrial user has the right to appeal allocations and industrial cost recovery assessments imposed on them in writing within thirty (30) days after notification of said allocations and assessments to the City. Should the City and the appealing industrial user fail to reach a reasonable agreement for allocations and industrial cost recovery assessments, the City shall initiate whatever legal action is appropriate to reach such an agreement.

SECTION 7. COLLECTION OF INDUSTRIAL COST RECOVERY FUNDS.

A. The City and County shall use the loadings from each industrial user, the flow of each industrial user and the applicable flow and loading rates for each specific facility to calculate the amount to be recovered from each industrial user within their jurisdiction.

B. The City shall submit an annual statement to each individual user for the annual industrial cost recovery amount. The City shall charge a penalty of one and one-half percent (1 1/2%) per month if payment from the industrial user is not received by the City within thirty (30) days. Should any industrial user fail to pay the industrial cost recovery amount and any penalty within three (3) months of the date due, the City may stop the wastewater service to the industrial user.

C. All Industrial Cost Recovery funds collected from industrial users and held by the City shall be deposited in interest bearing accounts which are fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof until such funds are disbursed.

SECTION 8. DISBURSEMENT OF RECOVERED FUNDS RETAINED BY THE CITY.

A. The City, after deduction for its incremental administrative costs of this system, may use ten percent (10%), in conjunction with the County, of the retained funds recovered from industrial users at its own discretion, provided that such funds may not be used for industrial pretreatment facilities or as rebates to industrial users.

B. Fifty percent (50%) of the original amount, together with fifty percent (50%) of the accumulated interest is to be paid to the U.S. Environmental Protection Agency each year within four months of the City's annual accounting period.

C. The City and County may retain forty percent (40%) of the original amount for investment in appropriate interest bearing accounts until its use is required for expansion or reconstruction of the treatment works as approved by the Regional Administrator of the U.S. Environmental Protection Agency. The City and County will establish an accounting ledger and identify those monies accumulated and retained from industry.

SECTION 9. VALIDITY. If any part or parts of this Ordinance are for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

SECTION 10. RELATION TO CODE. This Ordinance shall be and become of the Code of Ordinances of the City of Grand Junction, Colorado.

SECTION 11. ORDINANCE IN FORCE. This Ordinance shall be in effect on April 6, 1980.

Introduced and ordered published for title and purpose this 5th day of March, 1980.

PASSED and ADOPTED this 5th day of March, 1980.

Jane S. Quimby

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

APPROVED:

Gerald J. Ashby

City Attorney

County Attorney

I HEREBY CERTIFY that the foregoing ordinance being Ordinance No. 1874, was introduced, read, and ordered published in pamphlet form by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 20th day of February, 1980, and that Notice to this effect was published in the Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 6th day of March, 1980.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk

Published: February 22, 1980

Published: March 7, 1980

Effective: April 6, 1980