

VILLAGE OF FAIRGROVE
TUSCOLA COUNTY, MICHIGAN

ORDINANCE NO. 29

INDUSTRIAL COST RECOVERY-SANITARY SEWER

An ordinance establishing the Industrial Cost Recovery System, establishing charges to be collected and administration of the system.

Sec. 1. DEFINITIONS

1. Act- Shall mean the Federal Water Pollution Control Act, as amended, 33 U.S.C. ..., et seg.
2. Regional Administrator – Shall mean the Regional Administrator of the United States Environmental Protection Agency (Region V).
3. Authority – Shall mean the Village of Fairgrove, Tuscola County, Michigan.
4. Industrial Cost Recovery System (ICRS) – Shall mean a revenue system for the recovery of that portion of the Federal Grant amount used to construct facilities for the treatment of industrial wastes.
5. Industrial Cost Recovery Period – Shall mean the period of time in which the Federal Grant amount allowable to industry is collected.
6. Industrial Cost Recovery Charge – Shall mean those rates and charges levied to recover the Federal Grant amount used to construct facilities for the treatment of industrial wastes.
7. Industrial User –
 - a. 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, Officer of Management and Budget, as amended and supplemented under one of the following divisions:
 - ◆ Division A Agriculture, Forestry and Fishing
 - ◆ Division B Mining
 - ◆ Division D Manufacturing
 - ◆ Division E Transportation, Communications, Electric, Gas and Sanitary Svcs
 - ◆ Division I Services
 - (1) In determining the amount of a user's discharge for purposes of industrial cost recovery, the grantee may exclude domestic wastes or discharges from sanitary conveniences.
 - (2) After applying the sanitary waste exclusion in subparagraph (1) of this paragraph (if the grantee chooses to do so), dischargers in the above divisions that have a volume exceeding 25,000 gpd or the weight of biochemical oxygen demand (BOD) or suspended solids (SS) equivalent to that weight found in 25,000 gpd of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are the wastes discharged from residential users. The grantee, with the Regional Administrator's approval, shall define the strength of the residential discharges in terms of parameters including, as a minimum, BOD and SS per volume of flow.
 - b. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.
 - c. All commercial users of an individual system constructed with grant assistance under section 201(h) of the Act and this subpart. [See 35,918 (a) (3)].
8. Non-industrial User – Shall mean governmental user and those users not classified as industrial.
9. Segregated Domestic Wastes or Wastes from Sanitary Conveniences – Shall mean wastewater originating from and in such quantities and concentrations of normal daily human activity such as preparation of food, disposal of human wastes, washing and cleaning activities, and other household activities.
10. Industrial Wastes – Shall mean water-borne solids, liquids or gaseous wastes originating from any industrial, manufacturing, or commercial processing operation or process wastes from the development of any natural resource, or any combination of these, and distinct from employee segregated domestic wastes or wastes from sanitary conveniences.
11. Treatment Works – Shall mean an arrangement of devices and structures for collecting, conveying and treating wastewater.
12. Wastewater – Shall mean the spent water of the community. It may be a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water and storm water that may be present.

13. Federal Grant Amount – Shall mean that portion of the total eligible project costs for construction of a wastewater treatment works which has been financed by the Federal Government under the grant program pursuant to the Act.
14. Recovered Amounts – Shall mean those amounts collected from ICR charges for the recovery of the Federal Grant amount used to construct facilities for the treatment of industrial wastes.
15. Retained Amounts – Shall mean fifty percent of the Recovered Amounts, and any interest earned thereon, which is retained by the Village.
16. Shall is mandatory; may is permissive.

Sec. 2. ICRS CRITERIA

1. Each industrial user, as defined below, whose premises are served by the treatment works which discharges industrial wastes or other liquids, either directly or indirectly, shall be subject to an industrial cost recovery charge for the Federal Grant amount used to construct facilities for the treatment of industrial wastes proportional to usage derived from the treatment works to such user.
The Industrial Cost Recovery System is required by and is subject to Rules and Regulations published in the Federal Register, August 21, 1973 (38 FR 22524) and February 11, 1974 (39 FR 5252), and any subsequent Federal Guidelines and Rules and Regulations.
2. The industrial cost recovery charge shall be based upon all factors influencing the capital costs of the treatment works as determined by the Village, including such factors as strength, volume and delivery flow rates characteristics.
3. A substantial change in the strength, volume or delivery flow rate characteristics introduced into the treatment works by an industrial user shall warrant an adjustment in such user’s share of the recovered Federal Grant amounts used to construct facilities for the treatment of industrial wastes.
4. In the event an industrial user discontinues use of the treatment works, such user’s obligation to pay industrial cost recovery charges for any portion of the remaining industrial cost recovery period shall cease.
5. An industrial user who enters into the treatment works system after the industrial cost recovery period beings shall not be obligated for industrial cost recovery charges prior to its use of the treatment works.
6. An industrial user’s share of the Federal Grant amount used to construct facilities for the treatment of industrial wastes shall be adjusted in accordance with any upgrading or expansion of the treatment facilities associated with the project or projects receiving grant aid.
7. An industrial user’s share of the Federal Grant amount used to construct facilities for the treatment of industrial wastes shall include only those portions allocable to its use of or capacity firmly committed to its use.
8. An industrial user’s share shall not contain any interest component in the recovered amounts.
9. The industrial cost recovery period shall be 30 years.

Sec. 3. ICR CHARGES

1. Industrial Cost Recovery Charges shall be billed and collected annually.
2. The amounts are determined as follows:

INDUSTRIAL COSTS RECOVERY
(Based Upon Construction Bids)

Project Cost – For Akron-Fairgrove Sewage System

	Total	75% Federal Grant
Step 1	\$ 6,300	\$ 4,725
Step 2	90,200	67,650
Step 3	3,362,600	2,521,950
TOTALS	\$ 3,459,100	\$ 2,594,325

Design Basis

Population	1,574
Flow	100 g/c/d
BOD	.17 #/c/d
SS	.17 #/c/d

Breakdown of Cost

	Flow (gal/day)	BOD (#/day)	SS (#/day)
1,574 c X 100 g/c/d	157,400		
.17 #/c/d X 1,574 c		267.58	
.17 #/c/d X 1,574 c			267.58
Waste Treatment (\$449,977.71)	\$ 179,991.09	\$ 134,993.31	\$ 134,993.31

Sanitary Sewers (\$2,144,347.29)	2,144,347.29	0	0
TOTALS	\$ 2,324,338.38	\$ 134,993.31	\$ 134,993.31

Computation of Industrial Cost Recovery Charge

Flow \$ 2,324,338.38 – 157.4 = \$ 14,767.08/1,000 g/d
 BOD \$ 134,993.31 – 267.58 = \$ 504.50/# BOD/d
 SS \$ 134,993.31 – 267.58 = \$ 504.50/# SS/d

- The industrial Costs Recovery Charges on a daily basis shall be as follows:
 For each 1,000 gallons per day flow capacity utilized, the sum of \$ 1.3486.
 For each pound per day of BOD capacity utilized, the sum of \$ 0.0461.
 For each pound per day of suspended solids capacity utilized, the sum of \$ 0.0461.

Sec. 4. ADMINISTRATION

- Recovered amounts shall be kept by the Village in a separate and distinct account identified as the Industrial Cost Recovery Account.
- The Village shall retain fifty percent of the recovered amounts. The remainder, together with any interest earned thereon, shall be returned to the U.S. Treasury on no less than an annual basis. The first payment shall be due one year from the date on which the project was put into operation.
- Eighty percent of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs (in accordance with Federal Regulations 40 CFR 35.940) of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Act. The village shall obtain written approval of the Regional Administrator of the USEPA prior to commitment of the retained amounts for any expansion or reconstruction.
- The remained of the retained amounts shall be used as the Village sees fit. However, they shall not be used for operation and maintenance costs, including replacement, of the treatment works or for reduction of any user charges.
- Pending use, the Village shall invest the retained amounts in obligations of the U.S. Government or any agency thereof, or shall deposit such amounts 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.

Sec. 5 PENALTIES

- Charges for ICRS levied pursuant to this Ordinance shall be due and payable on or before the due dates shown on the bills. Any ICRS charges not paid by the due date shall be considered delinquent. Such delinquent charges together with any applied penalty shall be collectable as herein set forth.
- If ICRS charges are not paid within 60 days after rendition of bills, wastewater treatment services shall be discontinued without further notice and water supply service may be shut off and shall not be reinstated until all clauses are settled. The delinquent account shall be responsible for all expenses incurred in discontinuing services.
- Delinquent ICRS charges may be made lien against the property served. In such case, delinquent ICRS charges, together with a mandatory penalty of ten percent, and discontinued services expenses may be placed on a tax duplicate and be collected in the same manner as regular taxes and assessments are collected.
- In addition to the foregoing remedies, the Village shall have the right to bring a civil action to recover any delinquent ICRS charges together with a penalty of ten percent, discontinued service expenses, and a reasonable attorney's fee. It shall also have the right to foreclose any lien established under the provisions of this Ordinance with recovery of the ICRS charge, penalty of ten percent, discontinued service charges and a reasonable attorney's fee.

Sec. 6 APPEAL

- Industrial users may request a hearing by the Village Council to review the reasonableness of the allocation of the Industrial Recovery System and the ICR assessments against them.
- Any sewage customer has the right to review the ICR system and the administration of the ICR system by the Village.

Sec. 7 VALIDITY

- If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Sec. 8 ORDINANCE IN FORCE

- This Ordinance shall be in full force and effect from and after its passage and approval and publication as provided by law.

This Ordinance enacted by the Village Council of the Village of Fairgrove at a Regular meeting held at the Council Chambers in said Village on the 2nd of July 1979.

Yeas	5
Nays	0
Absent	1

ADOPTED July 2, 1979.

VERNON F GEHRLS, PRESIDENT

I, Barbara Lou Aldrich, Clerk of the Village of Fairgrove, do hereby certify that the above Ordinance is a true and correct copy of an Ordinance passed by the Village Council of the Village of Fairgrove, Tuscola County, Michigan, at a regular meeting on the 2nd day of July, 1979

In Testimony Whereof, I have hereunto set my hand and the seal of the Village of Fairgrove this 2nd day of July, 1979.

BARBARA LOU ALDRICH, CLERK