

BILL NO. 2718

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 13 OF THE SPARKS MUNICIPAL CODE; MODIFYING ENVIRONMENTAL CONTROL AND PRETREATMENT STANDARDS AND DEFINING POST CONSTRUCTION STORM WATER QUALITY MANAGEMENT; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

Section 1. Section 13.03.291: “Industrial/commercial discharger” is hereby amended as follows:

Section 13.03.291 Industrial/commercial discharger *or Industrial User.*

"Industrial/commercial discharger" *also referred to as an “Industrial User”* means a discharger with water-carried waste and wastewater other than wastewater from domestic sources, and shall include all wastewater from any producing, manufacturing, processing, institutional, commercial, agricultural, or other operation where the wastewater discharged includes quantities of waste from human and nonhuman origin.

Section 2. Section 13.36.090: “Limitations on wastewater” is hereby amended as follows:

Section 13.36.090 Limitations on wastewater quality and strength,

No person shall discharge wastewater containing constituents in excess of:

Constituent	<i>Instantaneous</i>-Maximum Concentration
Arsenic, Total	2.0 mg/l
Barium	14.0 mg/l
Boron	1.00 mg/l
Cadmium, Total	0.02 mg/l
Chromium, Total(total)	0.50 mg/l
Copper, Total	0.50 mg/l
Cyanide, Total	0.23 mg/l
Iron	90.0 mg/l
Lead, Total	0.30 mg/l
Manganese	1.10 mg/l
Mercury, Total	0.01 mg/l
Nickel, Total	1.80 mg/l
Selenium, Total	0.06 mg/l
Silver, Total	0.05 mg/l
Sulfate	240 mg/l
Zinc, Total	1.0 mg/l
Phenol	2.5 mg/l

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Other Phenolic Compounds	0.005 mg/l
Alkalinity	430 mg/l
Chloride	110 mg/l
Fluoride	4.0 mg/l

Section 3. Section 13.36.110: “Accidental spill/discharge” is hereby amended as follows:

Section 13.36.110 ~~Spill/slugs control~~**Accidental discharge, spill, and slug discharge plans.**

- A. Users shall notify the Public Works Director immediately upon becoming aware of an accidental *discharge*, spill, or *slug* discharge into the environment, sanitary or storm sewer systems in violation of this title. *An accidental discharge, spill, or slug discharge, is defined in this title as any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge of incompatible substances, regulated materials or wastewater into the environment, sanitary or storm sewer systems, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations, local limits or Permit conditions.* Notification shall enable the Public Works Director to take proper measures to reduce the impact of the spill or discharge. This notification shall be followed by a detailed written statement within (5) five days of the date of occurrence.
- B. *The Public Works Director shall evaluate whether each SIU needs an accidental discharge/slugs discharge control plan or other action to control accidental discharges, spills, and slug discharges. The Public Works Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Public Works Director may develop such a plan for any User.* When the Public Works Director deems it necessary, dischargers shall provide protection from an accidental *discharge*, spill, or *slug* discharge ~~of incompatible substances, regulated materials or wastewater into the environment, sanitary or storm sewer systems.~~ This protection at a minimum shall consist of the following:
1. A written ~~slug control plan~~*accidental discharge/spill/slugs discharge plan* containing operating procedures implemented to prevent an accidental spill/discharge. *An accidental discharge/spill/slugs discharge control plan shall address, at a minimum, the following:*
 - a. *Description of discharge practices, including non-routine batch discharges;*
 - b. *Description of stored chemicals;*
 - c. *Procedures for immediately notifying the Public Works Director of any accidental discharge, spill, or slug discharge, as required by Section 13.36.110(A) of this title, and*
 - d. *Procedures to prevent adverse impact from any accidental discharge, spill, or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.*
 2. Control measures installed to prevent a spill/discharge into the POTW or

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- environment.
3. Countermeasures to contain, cleanup and mitigate the effects of a spill/discharge.
 4. *Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for an accidental discharge, spill, or slug discharge.*
- C. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this title; nor shall it relieve the user of any other responsibility or liability imposed by law.
- D. When the Public Works Director deems it necessary to reduce the risk of exposing the populace, environment, sanitary or storm sewer systems to incompatible substances, secondary containment shall be installed. The Public Works Director may waive secondary containment requirements if a substance poses no hazard.

Section 4. Section 13.36.140: "Categorical pretreatment standards" is hereby amended as follows:

Section 13.36.140 Categorical pretreatment standards.

Categorical industrial users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Public Works Director may impose equivalent concentration or mass limits in accordance with Sections 13.36.140(E) and (F).
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Public Works Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- C. *The Public Works Director shall calculate the equivalent mass-per-day limitations under Section 13.36.140(B) by multiplying the limits in the Standard by the Industrial User's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the Industrial User's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.*
- D. *The Public Works Director shall calculate the equivalent concentration limitations under Section 13.36.140(B) by dividing the mass limitations derived under Section 13.36.140(C) by the average daily flow rate of the Industrial User's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the Industrial User's actual long-term average flow rate, such as the average daily flow rate during the representative year.*
- ~~C.E.~~ When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Public Works Director. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 13.36.140~~CE~~.1.a through 13.36.140~~CE~~.1.e below.
1. To be eligible for equivalent mass limits, the Industrial User must:

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- a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
2. An Industrial User subject to equivalent mass limits must:
- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the Public Works Director whenever production rates are expected to vary by more than twenty (20) percent from its baseline production rates determined in ~~paragraph 13.36.140C.3.e~~ *Section 13.36.140E.1.c*. Upon notification of a revised production rate, the Public Works Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to ~~paragraphs 13.36.140C.3.e of this section~~ *Section 13.36.140E.1.a* so long as it discharges under an equivalent mass limit.
3. When developing equivalent mass limits, the Public Works Director:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - c. May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation

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methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment. The Industrial User must also be in compliance with Section 13.36.160 of this title regarding the prohibition of bypass.

- DF.** The Public Works Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Public Works Director.
- EG.** Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (~~13.36.140~~) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- FH.** Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- GI.** Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Public Works Director within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Public Works Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.
- HJ.** A User may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.
1. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.
 2. Criteria.
 - a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 - b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

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- c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
 - d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.
- K.** The Public Works Director may develop Best Management Practices (BMPs), in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 13.36.010 of this title.

Section 5. Section 13.36.160: “Bypass provisions” is hereby amended as follows:

Section 13.36.160 Bypass provisions.

- A. Definitions.
 - 1. “Bypass” means the intentional diversion of wastestreams from any portion of an Industrial User’s treatment facility.
 - 2. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. Bypass not violating applicable Pretreatment Standards or Requirements.

An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.
- C. Notice.
 - 1. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the ~~control authority~~*Public Works Director*, if possible at least ten days before the date of the bypass.
 - 2. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the ~~control authority~~*Public Works Director* within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The ~~control authority~~*Public Works Director* may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- D. Prohibition of bypass.

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1. Bypass is prohibited, and the ~~control authority~~*Public Works Director* may take enforcement action against an Industrial User for a bypass, unless;
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The Industrial User submitted notices as required under paragraph (c) of this section.
2. The ~~control authority~~*Public Works Director* may approve an anticipated bypass, after considering its adverse effects, if the ~~control authority~~*Public Works Director* determines that it will meet the three conditions listed in ~~paragraph D.1 of this section~~*Section 13.36.160D.1.*

Section 6 Section 13.36.170: “Upset” is hereby added as follows:

Section 13.36.170 Upset

- A. *For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.*
- B. *An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of Section 13.36.170C, below, are met.*
- C. *A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:*
 1. *An upset occurred and the User can identify the cause(s) of the upset;*
 2. *The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and*
 3. *The User has submitted the following information to the Public Works Director within twenty-four (24) hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five (5) days:*
 - a. *A description of the indirect discharge and cause of noncompliance;*
 - b. *The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and*
 - c. *Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.*
- D. *In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.*

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- E. *Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.*
- F. *Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.*

Section 7. Section 13.39.110: “Environmental control permits for industrial/commercial dischargers” is hereby amended as follows:

Section 13.39.010 Environmental control permits for industrial/commercial dischargers.

Industrial/commercial dischargers connected to the city's sewer system that qualify as Class II, Class III, Class IV, or Class V dischargers (as defined below in Section 13.39.010(A) of this title) shall obtain an Environmental Control Permit from the Public Works Director. It is unlawful for any Class II, Class III, Class IV, or Class V discharger to discharge without such permit

- A. Industrial dischargers shall be categorized into one of the five (5) classifications described below:
 - 1. Class I: Industrial users which could not discharge any wastes greater in strength than domestic wastewater and do not pose a reasonable potential to discharge incompatible pollutants, *and do not qualify as a Significant Industrial User as defined in Section 13.03.725 of this title.*
 - 2. Class II: Industrial users that discharge wastewater greater in strength than domestic wastewater or pose a reasonable potential to discharge incompatible pollutants, *and do not qualify as a Significant Industrial User as defined in Section 13.03.725 of this title.*
 - 3. Class III: Industrial users that have pretreatment requiring maintenance at least annually or have on-site, hazardous waste as defined by 40 CFR Part 261 or are required by the City to install and maintain permanent secondary containment, *and do not qualify as a Significant Industrial User as defined in Section 13.03.725 of this title.*
 - 4. Class IV: Significant Industrial Users as defined in Section 13.03.725 which are not Categorical Industrial Users.
 - 5. Class V: Categorical Industrial Users as defined in Section 13.03.081.
- B. The Public Works Director shall require permits for other dischargers as determined by the Public Works Director to require special regulation or source control.

Section 8. Section 13.39.030: “Terms and conditions of permit” is hereby amended as follows:

Section 13.39.030 Terms and conditions of permit.

- A. Duration of Environmental Control Permits. Environmental Control Permits shall be issued

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for a specified time period not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the Public Works Director thirty days prior to the expiration of the permit, the permit shall be extended until such notice is made. The terms and conditions of the permit may be subject to modification and change by the Public Works Director during the life of the permit as limitations or requirements as identified in Chapter 13.36 of this title are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

B. Permit Conditions. Environmental Control Permits shall be expressly subject to all provisions of this title and all other applicable regulations, user charges and fees. Permit may contain, but are not limited to, the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
4. Limits, including Best Management Practices, based on applicable general Pretreatment Standards in 40 CFR 403, categorical pretreatment standards, local limits, and State and local law;
5. Requirements for installation and maintenance of inspection and sampling facilities;
6. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
7. Compliance schedules;
8. Requirements for submission of technical reports or discharge reports;
9. Requirements for maintaining and retaining records relating to wastewater discharge as specified by the Public Works Director and affording city access thereto;
10. Requirements for notification to the Public Works Director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
11. Requirements for the control and notification of *accidental discharges, spills, and* slug discharges;
12. Pretreatment of wastes before discharge;
13. Relocation of discharge points;
14. Prohibition of discharge of certain wastewater constituents;
15. Notification to the Public Works Director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater discharge;
16. Development of a compliance schedule for the installation of technology required to meet applicable pretreatment standards and requirements;
- ~~17. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;~~

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~~1817.~~ Other conditions necessary to accomplish the purpose of this title.

The permit may include a time schedule which allows the discharger time to meet the conditions of the permit. The industrial/commercial discharger, who has been issued a permit, will be responsible for all costs required to comply with conditions of the permit.

- C. Change of Permit Terms and Conditions. The Public Works Director may change any or all terms and conditions of an Environmental Control Permit for cause. The Public Works Director shall specify a reasonable compliance period to comply with any required changes in the permit.
- D. Transfer of a Permit. Environmental Control Permits are issued to a specific user for a specific operation. An Environmental Control Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

Section 9. Section 13.39.080: "Monitoring equipment construction and report requirements" is hereby amended as follows:

Section 13.39.080 Monitoring equipment construction and report requirements.

- A. Monitoring facilities and equipment.
 - 1. Monitoring facilities and equipment may be required of any sewer user in order to allow inspection, sampling and flow measurement of the building sewer, or internal drainage system.
 - 2. When more than one sewer user can discharge into a common building sewer, the Public Works Director may require installation of a separate monitoring facility for each user. Also when, in the judgment of the Public Works Director, there is significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Public Works Director may require that separate monitoring facilities be installed for each separate discharge.
 - 3. Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by a user.
 - 4. If sampling or metering equipment is also required by the Public Works Director, it shall be provided, installed and operated at the user's expense.
 - 5. The monitoring facility will normally be required to be located on the user's premises outside of the building. The Public Works Director, however, ~~when such a location would be required in order to enact a categorical pretreatment standards, or determined to be impractical, or cause undue hardship to the user,~~ may allow the monitoring facility to be constructed in the public street or public sidewalk area, *when such a location would be required in order to enact a Categorical Pretreatment Standard, or when a location on the user's premises as normally required is determined to be impractical, or cause undue hardship to the user.*
 - 6. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for city personnel, such as a gate secured with a city lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the sewer user.
 - 7. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the city's requirements.

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8. When, in the judgment of the Public Works Director an existing user requires a monitoring facility, the user will be so notified in writing.
 9. Construction must be completed within ninety days following written notification unless a time extension is otherwise granted by the Public Works Director.
- B. Monitoring reports.
1. Within ninety days following the date for final compliance with applicable discharge limitations, or in case of a new source following commencement of the introduction of wastewater into the city sewer system, any commercial/industrial discharger subject to such discharge limitations shall submit to the Public Works Director a report indicating the nature and concentration of all pollutants in the discharge from the affected commercial or industrial establishment.
 - a. The discharger's report will include reporting on the discharge from any regulated processes which are limited by the discharge limitations and the average and maximum daily flow from these process units in the user facility which are limited by such standards or discharge limitations.
 - b. The report shall state whether the applicable limitations are being met on a consistent basis, and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the sewer user into compliance with the applicable limitations.
 - c. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by Public Works Director or the Pretreatment Standard necessary to determine the compliance status of the User.
 - d. The submitted report will include the following certification signed by a duly authorized representative of the industrial user. "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
 2. Any user subject to a discharge limitation after the compliance date of such discharge limitation, or, in the case of a new source after commencement of the discharge into the city's sewage collection or treatment facilities, shall submit to the Public Works Director during the months of July and January, unless required more frequently by the Public Works Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such discharge limitations.
 - a. This report will include the following certification signed by a duly authorized representative of the industrial user. "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including

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- the possibility of fine and imprisonment for knowing violations."
- b. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported, as required under the permit.
 - c. At the discretion of the Public Works Director, and in consideration of such factors as local high or low flow rates, holidays, budgets and cycles, the Public Works Director may agree to alter the months during which the above reports are to be submitted.
 - d. The Public Works Director may impose mass limitations on users which are using dilution to meet applicable discharge limitations or in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by the above paragraphs shall indicate the mass of pollutants regulated by the discharge limitations in the effluent of the sewer user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and nature of concentration, or production and mass, where requested by the Public Works Director, of pollutants contained therein which are limited by the applicable pretreatment standards.
 - e. The frequency of monitoring shall be prescribed in the Environmental Control Permit.
3. Within 180 days after the effective date of a Categorical Pretreatment Standard or the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the sanitary sewers shall submit a baseline monitoring report containing the information listed in 40 CFR 403.12(b). At least 90 days prior to commencement of discharge to the sanitary sewers, New Sources subject to such categorical standards shall submit a baseline monitoring report containing the information listed in 40 CFR 403.12(b). A compliance schedule required as part of a baseline monitoring report shall meet the conditions of 40 CFR 403.12(c).
 4. Industrial users shall notify in writing the Public Works Director, and the hazardous waste authorities at the US Environmental Protection Agency and the State of Nevada, of any discharge into the sanitary sewers of any substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR 261. This notification does not apply to pollutants already reported under the self-monitoring requirements of Chapter 13.39.080(B)(1,2,3) of this title.
 5. All industrial users shall promptly notify the Public Works Director in advance of any substantial changes in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which the industrial user has submitted initial notification under Chapter 13.39.080(B)(4).
 6. If sampling performed by an industrial user indicates a violation, the user shall notify the Public Works Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Public Works Director within 30 days after becoming aware of the violations.
- C. Dischargers subject to federal reporting requirements shall maintain records of all information resulting from all monitoring activities. Such records shall be maintained in the dischargers' official business records for a minimum of three years and shall be made available for inspection and copying by the Public Works Director. The required period of record retention may be extended during the course of any unresolved litigation between

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a discharger and the city or when requested by EPA or NDEP. Such records shall, at a minimum, outline the following:

1. Collection date;
2. Collection time;
3. Collection point/source;
4. Grab/composite sample;
5. Name of person(s) collecting the sample;
6. Sample preservation method(s);
7. Name of laboratory/person(s) performing the analysis;
8. Analytical techniques/methods used;
9. Testing for, and results of such analysis.

D. Except as indicated in Sections E and F below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Public Works Director.

1. All sampling, including time-proportional composite sampling or grab sampling if authorized by the City, must be representative of daily operations, of the conditions occurring during the reporting period, and of the discharge.
2. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Public Works Director, as appropriate.
3. Grab samples may be required to show compliance with Instantaneous Limits.

E. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

F. For sampling required in support of baseline monitoring reports:

1. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist.
2. For facilities for which historical sampling data are available, Public Works Director may authorize a lower minimum.

G. *For sampling required in support of baseline monitoring and periodic compliance reports:*

- ~~31.~~ For the periodic monitoring reports established in Section 13.39.080 of this title, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.
42. In cases where a pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the city to determine the compliance status of the User.
53. ~~All analyses shall be performed in accordance with the procedures established in 40 CFR Part 136.~~ *All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines*

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that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Public Works Director or other parties approved by EPA.

64. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in Part 136 and amendments, and include all monitoring results for the period covered by the report, including those from monitoring conducted more frequently than required. This sampling and analysis may be performed by the city in lieu of the User.
- GH. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 13.36.140(I) of this title.
1. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
 2. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by Public Works Director.

Section 10. Section 13.42.045: “Significant non-compliance” is hereby amended as follows:

Section 13.42.045 Significant noncompliance.

The Public Works Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements *as specified in 40 CFR 403.8 (f)(2)(viii) and below*. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates the Wastewater Regulations as set forth in Chapter 13.36 of this title) and means:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 13.36.090 of this title.
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 13.36.090 of this title multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section

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13.36.090 of this title (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Public Works Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Public Works Director's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Public Works Director determines will adversely affect the operation or implementation of the local pretreatment program.

PASSED AND ADOPTED this _____ day of _____, 2017,
by the following vote of the City Council:

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED this _____ day of _____, 2017 by:

Geno Martini, Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Teresa Gardner
City Clerk

Chester H. Adams
City Attorney