

ORDINANCE NO. 3496

(Repeal and Replace Henderson Municipal Code Chapter 14.09 - Pretreatment Regulations)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO REPEAL AND REPLACE CHAPTER 14.09 - PRETREATMENT REGULATIONS OF TITLE 14 - UTILITY SERVICES OF THE HENDERSON MUNICIPAL CODE.

- WHEREAS, Ordinance 2798 was adopted by the City of Henderson, Nevada, ("City") City Council (the "City Council") on January 20, 2009; and
- WHEREAS, Ordinance 2676 was adopted by the City Council on January 8, 2008; and
- WHEREAS, Ordinance 2536 was adopted by the City Council on December 5, 2006; and
- WHEREAS, Nevada Revised Statutes (NRS) 268.081.5 gives the City Council authority "to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition," including sewage treatment and "[a]ny other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide"; and
- WHEREAS, NRS 268.083.1 gives the City Council authority to "[p]rovide those services ... on an exclusive basis or, by ordinance, adopt a regulatory scheme for providing those services or controlling development on an exclusive basis within the boundaries of the city"; and
- WHEREAS, Section 2.270.1 of the Henderson City Charter gives the City Council authority to "[p]rovide for a sanitary sewer system or any part thereof..."; and
- WHEREAS, Section 2.270.1 of the Henderson City Charter gives the City Council authority to "[e]stablish sewer fees and provide for the enforcement and collection thereof"; and
- WHEREAS, the Department of Utility Services of the City maintains a National Pollution Discharge Elimination System (NPDES) permit from the Nevada Division of Environmental Protection, Bureau of Water Pollution Control for the discharge of treated effluent for both publicly owned treatment works (POTW) Kurt R. Segler Water Reclamation Facility and the Southwest Water Reclamation Facility; and
- WHEREAS, the permit requires the City as the permittee to implement a pretreatment program and enforce the requirements pursuant to the legal authority enforceable in federal, state or local courts, which authorizes or enables the POTW to apply requirements promulgated under sections 307 (b) and (c), and 402(b)(8) of the Clean Water Act (Act) (33 U.S.C.1251 et seq.); and
- WHEREAS, this ordinance sets forth uniform requirements for all industrial users that discharge into the POTW and enables the City to comply with all applicable

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state and federal laws under the Act and the General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR Part 403); and

WHEREAS, amendments are necessary to incorporate revisions to the pretreatment program and maintain compliance with all requirements of 40 CFR Part 403; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Chapter 14.09 - Pretreatment Regulations of Title 14 of the Henderson Municipal Code is hereby repealed and replaced with the following language:

14.09.010 - Definitions and rules of construction; abbreviations

14.09.020 - Applicability, objectives and responsibility of the city.

14.09.030 - Wastewater discharge prohibitions and limitations.

14.09.040 - National categorical pretreatment standards.

14.09.050 - Pretreatment and monitoring facilities.

14.09.060 - Industrial wastewater discharge permits.

14.09.070 - Industrial wastewater discharge permit conditions.

14.09.080 - Industrial wastewater discharge permit modification.

14.09.090 - Industrial wastewater discharge permit revocation.

14.09.100 - Special agreements and contracts.

14.09.110 - Recordkeeping

14.09.120 - Confidentiality of information.

14.09.130 - Sample collection and analytical methods.

14.09.140 - Right of entry.

14.09.150 - Reporting and notification requirements.

14.09.160 - Sector control programs.

14.09.170 - Compliance and enforcement.

14.09.180 - Remedies nonexclusive.

14.09.190 - No waiver.

14.09.200 - Regulation of industrial users from outside jurisdictions.

14.09.210 - Affirmative defenses to discharge violations.

14.09.010 - Definitions and rules of construction; abbreviations

A. Definitions and rules of construction. The following words, terms and phrases, when used in this chapter, whether or not initially capitalized and except where the context clearly indicates a different meaning, shall have the meanings ascribed to them as follows:

Act means the Federal Water Pollution Control Act of 1948 (P.L. 80-845, 62 Stat. 155, 33 USC §1251, et seq.), as amended, also known as the Clean Water Act.

Approval authority means the Regional Administrator of EPA Region 9 or, upon EPA delegating authority of the pretreatment program to the state of Nevada, the Administrator of the Nevada Division of Environmental Protection.

Authorized representative or duly authorized representative of the industrial user means:

1. If the industrial user is a business structure other than a partnership or sole proprietorship:

a. The president, secretary, treasurer, or a vice-president of the legal entity in charge of a principal business function, or any other person who performs similar policy or decision making functions for the legal entity; or

b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or

implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for industrial wastewater discharge permit requirements; and has apparent or actual authority to sign documents in accordance with applicable internal procedures.

2. If the industrial user is a partnership or sole proprietorship business structure: a general partner or proprietor, respectively.
3. If the industrial user is a federal, state, or local government entity: The highest official appointed or designated to oversee the operation and performance of the activities of the governmental entity, or their designee.
4. The individuals described in subsections 1 through 3, above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the industrial user, and the written authorization is submitted to the city.

Baseline monitoring report means the report required in subsection 14.09.150.B.

Best management practice means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the General and Specific Prohibitions listed in section 14.09.030. BMPs may also include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered local

limits and pretreatment standards for the purposes of this chapter and section 307(d) of the Act as specified at 40 CFR section 403.5(c)(4).

Biochemical oxygen demand – five day means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees (20°) Celsius, expressed in mg/L.

Bypass means the intentional diversion of wastestreams from any portion of an industrial user's pretreatment facility.

Categorical industrial user means an industrial user who is subject to a categorical pretreatment standard.

Categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 33 USC §1317, which apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

Chemical oxygen demand means the measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Clean Air Act means the Air Pollution Control Act (1955) (P.L. 84-159, 69 Stat. 322, 42 USC §7401, et seq.), as amended.

Code of Federal Regulations means the Code of Federal Regulations, as amended.

Composite sample means a representative flow-proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time-proportional sampling may be approved or used by the city where time-proportional samples are believed representative of the discharge.

Cooling water means:

1. Contact: Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product.
2. Noncontact: Water used for cooling purposes which does not comes in contact with any raw material,

intermediate product, waste product or finished product and the only pollutant added is heat.

Daily maximum discharge limit means the maximum allowable concentration of a pollutant(s) that may be discharged during a calendar day or as specified in an industrial wastewater discharge permit. Where daily maximum discharge limits are expressed in units of mass, the discharge is the total mass discharged over the sampling period.

Direct discharge means the discharge of pollutants to waters of the United States.

Director means the director of the department of utility services who is designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities under this chapter, or their duly authorized representative.

Environmental Protection Agency means the United States Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing source means any indirect discharge that is not a new source.

Fats, oil and grease means non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using the approved method for Hexane Extractable Materials in the analytical procedures established in 40 CFR part 136.

Grab sample means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Gravity grease interceptor is an in-ground tank containing at least one baffle in which solids, greases and oils are separated from wastewater, located outside the industrial user's building and made accessible by at least two manhole covers.

Hydromechanical grease interceptor or grease trap means a small device hooked directly to the outgoing drains of sinks located inside a

commercial food preparation facility that allows for the separation of fats, oils and grease of a non-petroleum nature from wastewater prior to being discharged into the POTW.

Hazardous waste means any waste designated as hazardous under the provisions of 40 CFR part 261.

Holding tank waste means any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, sealed vaults, and vacuum-pump tank trucks.

Indirect discharge means the discharge or the introduction of pollutants into the POTW from any nondomestic source, including holding tank waste from a non-domestic user.

Industrial user means a source of indirect discharge.

Industrial waste means the liquid or solid wastes from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.

Industrial wastewater discharge permit means a permit issued by the city to an industrial user that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in this chapter.

Instantaneous discharge limit means the maximum or minimum concentration or measurement for a pollutant or pollutant property allowed to be discharged at any time for any length of time and is determined by use of a grab sample or a direct measurement.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both

1. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and
2. Therefore is a cause of a violation of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits

issued thereunder, or any more stringent state or local regulations: section 405 of the Act; the SWDA, including Title II commonly referred to as RCRA; any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local limits means any regulation containing pollution discharge limits promulgated by the city in accordance with 40 CFR sections 403.5(c) and (d), which are deemed to be pretreatment standards and contained in section 14.09.030.

Marine Protection, Research, and Sanctuaries Act means the Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052 and 1061, 33 USC § 1401, et seq. and 16 USC § 1431, et seq.), as amended.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, pharmaceutical residues, and dialysis wastes.

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of the Act.

National pollutant discharge elimination system means the Clean Water Act program delegated by EPA to the state of Nevada program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the state implemented by the Nevada Division of Environmental Protection pursuant to section 402 of the Act and the state of Nevada Water Pollution Control Law, chapter 445A of the Nevada Revised Statutes (NRS 445A.300-445A.730).

New source means:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication

of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections 1.b. or 1.c. of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
- a. Begun, or caused to begin as part of a continuous onsite construction program:
 - (1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

North american industry classification system means the system used by business and government to classify business establishments according to the type of economic activity.

Normal domestic strength wastewater means wastewater, when analyzed in accordance with procedures established in 40 CFR part 136, contains no more than three hundred (300) mg/L of TSS and/or three hundred (300) mg/L of BOD₅. Discharges to the POTW that exceed these concentrations shall be surcharged.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any natural person, any form of business, social organization, or other nongovernmental legal entity (including, but not limited to, a corporation, partnership, association, trust or unincorporated organization), a government, governmental agency or political subdivision of a government.

pH means the acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as standard units (SU).

Pollutant means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive materials, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD₅, COD, toxicity or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical process, biological process, or by other process or means, except as prohibited by 40 CFR section 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR section 403.6(e).

Pretreatment requirement means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

Pretreatment standard, national pretreatment standard or standard means any regulation containing pollutant discharge limits promulgated by EPA, in accordance with section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits, local limits and best management practices that are established by the city. In cases of differing standards, the more stringent shall apply.

Publicly owned treatment works means a treatment works as defined by 33 USC 1292, which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of

a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over the industrial user's discharges to and the discharges from the treatment works.

Resource Conservation and Recovery Act means the Resource Conservation and Recovery Act (1976) (P.L. 94-580, 90 Stat. 2795, 42 USC § 6901, et seq.), as amended.

Sand/oil separator means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept sand (or other aggregate) and oil and grease from a wastewater discharge and are designed considering retention times, volumes in gallons calculated for each facility, and gravity separation; such interceptors include baffle(s) and a minimum of two compartments. See section 14.09.160.

Sector control program means a program designed to control specific pollutants from industrial users with similar operations, waste generation or treatment through the implementation of pretreatment standards and pretreatment requirements, including best management practices. These sector control program requirements may be found at section 14.09.160.

Significant industrial user means:

1. A categorical industrial user; or
2. An industrial user that:
 - a. Discharges making up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
 - b. Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding noncontact cooling, sanitary, and boiler blow down); or
 - c. Is designated as such by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or pretreatment requirement.

The city, at its sole discretion, may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (100 gpd) of total wastewater subject to categorical pretreatment standards (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- a. The industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and pretreatment requirements;
- b. The industrial user annually submits the certification statement as found in 40 CFR section 403.12(q), together with any additional information necessary to support the certification statement; and
- c. The industrial user never discharges any untreated concentrated wastewater.

Upon finding by the director that an industrial user meeting the criteria in subsection 2 of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the director may at any time, on its own initiative or in response to a petition received from an industrial user, determine that such industrial user is not a significant industrial user.

Slug load or slug discharge means any discharge at a flow rate or concentration, which could cause a violation of the general or specific prohibitions in section 14.09.030. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, or a discharge which exceeds the hydraulic or design capacity of an industrial user's treatment system or any part of the treatment unit including a discharge which has a reasonable potential to cause interference or pass through or in any other way violate an applicable pretreatment

standard or pretreatment requirement or an industrial wastewater discharge permit issued by the city.

Solid Waste Disposal Act means the Solid Waste Disposal Act (1965) (P.L. 89-272, 79 Stat. 992, 42 USC § 6901, et seq.), as amended, including by the RCRA.

Standard industrial classification code means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation, including snowmelt.

Surcharge means an additional charge to an industrial user whose discharge waste strength is in excess of the normal domestic strength wastewater.

Total dissolved solids means the "residue-on-evaporation" of the filterable solids in water or wastewater, otherwise known as that portion of solids that passes through a glass fiber filter and dried at 180 degrees Celsius (180°C) using a method approved in 40 CFR part 136.

Total suspended solids means the solids that float on the surface of, or are suspended in the water, sewage, or other liquid, and which are removable by laboratory filtering in accordance with procedures approved in 40 CFR part 136, as amended.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under section 307(a) of the Act or as otherwise listed in 40 CFR part 122, appendix D.

Toxic Substances Control Act means the Toxic Substances Control Act (1976) (P.L. 94-469, 90 Stat. 2003, 15 USC § 2601, et seq.), as amended.

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 industrial user, but does not include noncompliance to the extent caused by

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operational error, improperly designed pretreatment facilities, inadequate pretreatment facilities, lack of preventive maintenance, or careless or improper operation.

User means a recipient of city wastewater services.

Wastewater means the liquid and water-carried industrial or domestic wastes from residences, commercial buildings, industrial facilities and institutions, together with any infiltrating groundwater, surface water and stormwater that may be present, whether treated or untreated, which are discharged to or permitted to enter the POTW.

United States Code means the United States Code, as amended.

B. Abbreviations. The following abbreviations shall have the designated meanings:

<u>BMP</u>	<u>Best Management Practice</u>
<u>BMR</u>	<u>Baseline Monitoring Report</u>
<u>BOD₅</u>	<u>Biochemical Oxygen Demand – five day</u>
<u>°C</u>	<u>Degrees Celsius</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>
<u>COD</u>	<u>Chemical Oxygen Demand</u>
<u>EPA</u>	<u>Environmental Protection Agency</u>
<u>°F</u>	<u>Degrees Fahrenheit</u>
<u>FOG</u>	<u>Fats, Oils and Grease</u>
<u>gpd</u>	<u>gallons per day</u>
<u>GGI</u>	<u>Gravity Grease Interceptor</u>
<u>HMGI</u>	<u>Hydromechanical Grease Interceptor</u>
<u>ILA</u>	<u>Inter-Local Agreement</u>
<u>IMR</u>	<u>Industrial Monitoring Report</u>
<u>IU</u>	<u>Industrial User</u>
<u>mg/L</u>	<u>milligrams per Liter</u>
<u>NAICS</u>	<u>North American Industry Classification System</u>
<u>NDEP</u>	<u>Nevada Division of Environmental Protection</u>
<u>NPDES</u>	<u>National Pollutant Discharge Elimination System</u>
<u>O&M</u>	<u>Operation and Maintenance</u>
<u>POTW</u>	<u>Publicly Owned Treatment Works</u>
<u>RCRA</u>	<u>Resource Conservation and Recovery Act</u>

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

<u>§</u>	<u>Section</u>
<u>SIU</u>	<u>Significant Industrial User</u>
<u>SWDA</u>	<u>Solid Waste Disposal Act</u>
<u>SIC</u>	<u>Standard Industrial Classification</u>
<u>TDS</u>	<u>Total Dissolved Solids</u>
<u>TSS</u>	<u>Total Suspended Solids</u>
<u>USC</u>	<u>United States Code</u>

14.09.020 - Applicability, objectives and responsibility of the city.

- A. Applicability. This chapter sets forth uniform requirements for all industrial users that discharge into the POTW and enables the city to comply with all applicable state laws and federal laws under the Act and the General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR part 403).
- B. Objectives. The objectives of this chapter are to:
1. Prevent the introduction of pollutants into the POTW which will interfere with the operation of the system or contaminate the resulting sludge;
 2. Prevent the introduction of pollutants into the POTW which will pass through the wastewater facilities, inadequately treated, into the receiving waters or the atmosphere, or otherwise be incompatible with the system;
 3. Provide for and promote the general health, safety and welfare of both the general public and the POTW personnel who may be affected by wastewater and sludge in the course of their employment;
 4. Improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
 5. Provide for the equitable distribution of the cost of operation and maintenance of the POTW by requiring the industrial user making, causing or allowing the indirect discharge to pay the direct costs of all labor, equipment and materials incurred by the city to handle, treat, inspect, monitor, sample, test, dispose of or remediate that discharge; and

6. Enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws or regulations to which the POTW is subject.

C. Industrial users.

No industrial user shall discharge wastewater to the POTW unless done so in compliance with the provisions of this chapter.

D. Owner/tenant responsibility.

Where an owner of property leases a premises to a person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user at the premises, either or both as an industrial user(s) are responsible for compliance with the provisions of this chapter.

E. Authority of director. Except as otherwise provided, the director shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

F. Notification to industrial users. The director shall attempt to notify in writing any industrial user whom the city has reason to believe is subject to a national categorical pretreatment standard or pretreatment requirement, or other applicable requirements promulgated by the EPA under the provisions of section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the city to so notify industrial users shall not relieve said industrial users from the responsibility of complying with applicable requirements. It is the responsibility of significant industrial users to apply for and receive a permit prior to discharge, whether or not they have been identified and formally requested to do so.

G. Discharge by industrial users. If wastewaters discharged by an industrial user contain any pollutant or unexplained uncharacteristically high flow that have the potential to discharge in the opinion of the director or are proposed to be discharged to the POTW, the director may take any action necessary to:

1. Prohibit the discharge of such wastewater;

2. *Require an industrial user to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this chapter;*
3. *Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this chapter;*
4. *Require the industrial user making, causing or allowing the discharge to pay any additional cost or expense incurred by the city for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;*
5. *Require the industrial user to apply for and obtain a permit, including a zero discharge permit;*
6. *Require timely and factual reports from the industrial user; or*
7. *Take such other action as may be necessary to meet the objectives of this chapter.*

14.09.030 - Wastewater discharge prohibitions and limitations.

- A. *General prohibitions. No industrial user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which causes pass through or interference. These general prohibitions and the specific prohibitions in subsection B apply to all industrial users of the POTW whether or not the industrial users are subject to other pretreatment standards or pretreatment requirements.*
- B. *Specific prohibitions.*

No industrial user shall contribute the following pollutants into the POTW:

1. *Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater facilities, including, but not limited to, wastestreams with a closed cup flashpoint of less than 60 degrees Celsius (60°C) or one hundred forty degrees Fahrenheit (140°F) using the test methods specified in 40 CFR*

section 261.21. The director may require industrial users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5%), nor any one reading more than ten percent (10%), of the lower explosive limit (LEL) of the meter.

2. Solid or viscous substances which may cause obstruction to the flow in the POTW resulting in interference.
3. Any wastewater having a pH less than 5.0 or higher than 12.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW.
4. Any pollutant, including oxygen demanding pollutants (BOD₅, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees (40°) Celsius or one-hundred and four degrees (104°) Fahrenheit unless EPA, upon request of the POTW, approves alternate temperature limits;
6. Any petroleum oil, non-biodegradable cutting oil, or products of mineral origin in amounts that will cause pass through or interference. The city may include sampling and reporting requirements in a permit or require compliance with permit specific limits or best management practices where the concentration has the reasonable potential to exceed 100 mg/L.
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems or pollutants which singly or cumulatively or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent or interfere with entry into the POTW for their maintenance and repair.

8. Any trucked or hauled pollutants, except at discharge points designated by the director;
9. Rainwater, stormwater, groundwater, street drainage, subsurface drainage, roof drainage, yard drainage, water from yard fountains or water features, ponds or lawn sprays or other non-potable water as determined by the city to be discharged to the POTW without prior authorization. The director may approve the discharge of such water only when, in the opinion of the city, there is no other reasonable method of disposal available. If authorization is granted for the discharge of such water into the POTW, the industrial user shall pay an applicable user charge, as set forth in the department service rules, and meet all conditions as required. No discharge of wastewater or stormwater in any form, as defined in the Act, shall be made into the stormwater system or waters of the state of Nevada that would cause a violation of the city's NPDES permit.
10. Any substance which may cause the POTW's effluent, or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
11. Any substance which will cause the city to violate its NPDES permit or applicable water quality standards.
12. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
13. A slug discharge.
14. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director or other regulations set forth by the state of Nevada or that violates any applicable state or federal regulations.
15. Bulk, expired, outdated or concentrated prescription or non-prescription drugs.

16. Wastewater or pollutants discharged directly into a manhole or other opening to the POTW unless specifically authorized by the director or as otherwise permitted under this chapter. Prohibited is the opening of a manhole or discharging into any opening in violation of this chapter.
17. Wastewater contaminated as a result of discharge from aboveground and/or underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank accessories, and/or pipelines without applying for and obtaining a permit prior to discharge.
18. Liquid wastes from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the city to collect such wastes.
19. Sludges, screenings, or other residues from the treatment of industrial wastes.
20. Medical wastes that cause or contribute to pass through or interference.
21. Wastewater causing the POTW effluent to fail a Whole Effluent Toxicity (WET) test.
22. Detergents, surfactants and other surface-active agents, or other substances which may cause excessive foaming in the POTW or cause or contribute to pass through or interference.
23. Discharge of Nonylphenol from the use of bulk or concentrated Nonylphenol containing detergents as employed by some industrial or commercial laundries, car washes or asphalt manufacturers or other industrial users.
24. Wastewater which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5° Celsius).

- 25. *Wastewater containing free or floating oil and grease, or any discharge containing FOG in excess of two hundred and fifty milligrams per liter (250 mg/L). Unless otherwise approved by the director a food service establishment shall install and properly operate and maintain a GGI and implement all required BMPs as specified in section 14.09.160.*
- 26. *Wastewater generated as a result of wastes pumped from GGIs, HMGLs or grease traps, sand-oil separators or other storage tanks or treatment units back into the POTW, either directly or indirectly, without approval of the director.*
- 27. *Discharge of any wastewater containing perchloroethylene (PCE) (also known as Tetrachloroethene and Tetrachloroethylene) from any industrial user.*
- 28. *Wastewater of domestic origin or associated with any industrial activities shall not be discharged to the city stormwater system unless permitted by the state and approved by the city in writing.*
- 29. *Any pollutant or wastewater containing pollutants with UV (254 nm) absorbing substances which causes interference with UV disinfection at the treatment plant.*
- 30. *Any pesticides, herbicides or fungicides that cause or contribute to pass through, interference or other problems at the treatment works or in the receiving waters. In no case, shall an industrial user discharge wastewater that is generated from the rinsing of any container that contains or contained any concentrated or formulated pesticide, herbicide or fungicide.*

C. *Specific discharge limitations*

- 1. *No significant industrial user shall discharge or cause to be discharged wastewater that exceeds the following limits:*

<u><i>Pollutant^(a)</i></u>	<u><i>Daily Maximum Discharge Limit (mg/L)</i></u>
<u><i>Arsenic</i></u>	<u><i>0.96</i></u>
<u><i>Cadmium</i></u>	<u><i>0.027</i></u>

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

Repeal and Replace Henderson Municipal Code Chapter 14.09 - Pretreatment Regulations

<u>Chromium</u>	<u>1.49</u>
<u>Copper</u>	<u>2.19</u>
<u>Lead</u>	<u>1.13</u>
<u>Mercury</u>	<u>0.046</u>
<u>Nickel</u>	<u>3.72</u>
<u>Selenium</u>	<u>0.48</u>
<u>Silver</u>	<u>1.50</u>
<u>Zinc</u>	<u>7.17</u>
<u>5-Day Biochemical Oxygen Demand (BOD₅)^{(b)(c)}</u>	<u>13,953 lbs/day</u>
<u>Total Suspended Solids (TSS)^{(b)(c)}</u>	<u>14,463 lbs/day</u>
<u>Phosphorus^(b)</u>	<u>441 lbs/day</u>

- (a) All pollutants as total and in mg/L unless otherwise specified.
- (b) These limits are the total mass in pounds per day (lbs/day) that are available to allocate to all permitted industrial users. Allocations are at the sole discretion of the city.
- (c) Discharges containing BOD₅ or TSS concentrations over that of normal domestic strength wastewater shall be surcharged.

2. The city may, at its sole discretion, implement local limits through allocation of the Maximum Allowable Industrial Load (MAIL) to significant industrial users and correspond to the uniform concentration local limits shown in the table above. The MAILs that correspond to the daily maximum discharge limits are hereby incorporated by reference.

D. A significant industrial user who introduces wastewater into the POTW may be required to submit a Salinity Control Plan if monitoring of the industrial user's discharge shows it exceeds one thousand two hundred (1,200) mg/L TDS. This plan shall contain a description of the chemicals and materials used that contribute to the TDS concentration and the source control measures that will be implemented to reduce the TDS concentration in the discharge to less than one thousand two

hundred (1,200) mg/L or to a level specified by the director that prevents discharges that cause or contribute to pass through or interference.

- E. The city may establish more stringent pollutant limits by ordinance and/or the director may establish additional site-specific pollutant limits in a permit, best management practices, or additional pretreatment requirements when, in the judgment of the director, such limitations are necessary to implement the provisions of this chapter.
- F. Dilution is prohibited as a substitute for treatment and shall be a violation of this chapter. Except where expressly authorized to do so by an applicable pretreatment standard or pretreatment requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or pretreatment requirement. The city may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or pretreatment requirements or in other cases where the imposition of mass limitations is appropriate.
- G. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal pretreatment standards and pretreatment requirements or those in this chapter.

14.09.040 - National categorical pretreatment standards.

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 director may impose equivalent concentration or mass limits in accordance with subsections 14.09.040.E and 14.09.040.F.
- B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the 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. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 CFR section 403.6(e).
- D. A categorical industrial user may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following subsections.
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 subsection D.2 below are met.
 2. Criteria.
 - a. Either (1) the applicable categorical pretreatment standards contained in 40 CFR, chapter I, subchapter N specifically provide that they shall be applied on a net basis; or (2) 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, total suspended solids, 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.
 - 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.

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 director. The city may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections E.1.a. through E.1.e. below.

1. To be eligible for equivalent mass limits, the industrial user must:

- 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

- c. May retain the same equivalent mass limit in subsequent industrial 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 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 pursuant to subsection 14.09.030.F. The industrial user must also be in compliance with 40 CFR section 403.17 regarding the prohibition of bypass.
- F. The 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 director.
- G. Once included in its permit, the industrial user must comply with the equivalent limitations developed in section 14.09.040 in lieu of the promulgated categorical pretreatment standards from which the equivalent limitations were derived.
- H. 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.
- I. Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the 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 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.

14.09.050 - Pretreatment and monitoring facilities.

- A. *Treatment required. An industrial user shall provide necessary wastewater treatment at the industrial user's expense as required to comply with this chapter and shall achieve compliance with all pretreatment standards and pretreatment requirements within the time limitations specified by the EPA, NDEP, or the city, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review and shall be acceptable before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.*
- B. *The industrial user shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the industrial user. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by an industrial user when the operation is necessary to achieve or assure compliance with conditions of the permit.*
- C. *Monitoring facilities. The city may require an industrial user to install at the industrial user's expense, suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the city's requirements and all applicable construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order, calibrated as required by manufacturer's recommendations and kept safe and accessible at all times to city personnel. The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building unless otherwise approved by the city. When such a location would be impractical, the city may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles. No industrial user shall cover any manhole, sewer cleanout, or other openings in the POTW with earth, paving, or otherwise render it inaccessible.*
- D. *The director may require an industrial user to have treatment facility operators that are certified as industrial waste operators by the Nevada*

Water Environment Association. The minimum grade of certification required shall be determined by the director.

- E. Wastewater discharge control. The city may require an industrial user to restrict discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the industrial user's compliance with the requirements of this chapter.
- F. Flow equalization. The city may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.
- G. Multitenant buildings. When more than one industrial user is able to discharge into a common service line, the city may require installation of separate monitoring equipment or structures for each industrial user.
- H. Flow, pH, LEL and other meters and equipment. If the city determines an industrial user is required to measure and report (1) wastewater flow, (2) discharge process wastewaters necessitating continuous pH measurement, or (3) discharge wastewater that may contain flammable substances or other pollutants of concern, the city may require the industrial user to install and maintain, at the industrial user's expense, approved meters and equipment. The type of meter and installation design shall be certified by a professional engineer licensed in the state of Nevada.

14.09.060 - Industrial wastewater discharge permits.

A. Permits required.

All SIUs proposing to connect to, or discharge into, any part of the POTW shall apply for and obtain an industrial wastewater discharge permit prior to commencing discharge to the POTW. A separate permit may be required for each SIU building or complex of buildings. Such SIUs shall immediately contact the city and obtain an industrial wastewater discharge permit.

B. *New industrial users: applying for an industrial wastewater discharge permit.*

Any industrial user required to obtain an industrial wastewater discharge permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The industrial user shall file a permit application on forms provided by the city containing the information specified in subsection 14.09.060.F. below. The completed application for the industrial wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The city may issue a permit at any time after receipt of the completed permit application.

C. *Existing industrial users: applying for an industrial wastewater discharge permit re-issuance.*

An industrial user with an expiring industrial wastewater discharge permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the industrial user's existing discharge permit. The industrial user shall file a permit application on forms provided by the city containing the information specified in subsection 14.09.060.F. below. An industrial user with an existing permit that has filed a complete and timely application may continue to discharge, as approved in writing by the city, through an administrative extension of the existing permit if the delay in permit issuance is not due to any act or failure to act on the industrial user's part.

D. *Other industrial users.*

The city may require other industrial users to apply for and obtain wastewater discharge permits or similar control mechanisms necessary to carry out the purposes of this chapter. The city may issue an industrial wastewater discharge permit, a zero discharge permit or other control mechanism as needed to prohibit the discharge of some or all non-domestic process wastewater from an industrial user or to establish other pretreatment standards or requirements.

E. *Enforceability.*

Any violation of the terms and conditions of an industrial wastewater discharge permit, failure to apply for a permit as required, or

discharging without a required permit shall be deemed a violation of this chapter and subjects the industrial user to enforcement by the city. Obtaining an industrial wastewater discharge permit does not relieve a permittee of its obligation to comply with all state and federal pretreatment standards or pretreatment requirements.

F. Permit application contents.

In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name of business, address of the facility, location of the discharge if different from the facility address, and contact information for the owner, operator and the authorized representative of the industrial user.
2. Environmental permits. A list of any environmental control permits held by or for the facility.
3. Description of operations.
 - a. A brief description of the nature, average and maximum rate of production (including each product produced by type, amount, processes, and rate of production);
 - b. The standard industrial classification(s) of the operation(s) carried out by such industrial user;
 - c. A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW from each regulated process and source of non-domestic wastewater;
 - d. A listing of all non-domestic process streams and the type(s) of wastes generated from each process;
 - e. A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - f. Number of employees; and

- g. Hours of operation, and proposed or actual hours of operation.

- 4. Time and duration of discharges including the date the industrial user first began discharge or plans to discharge to the POTW.

- 5. The location for sampling the wastewater discharges from the industrial user.

- 6. Flow measurement. Information showing the average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR section 403.6(e). For new sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the baseline monitoring report required in section 14.09.150.

- 7. Measurement of pollutants.

 - a. The pretreatment standards applicable to each regulated process;

 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the standard or by the city;

 - c. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;

 - d. The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in section 14.09.130. Where the standard requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the city or the applicable standard to determine compliance with the standard; and

- e. Analyses must be performed in accordance with procedures set out in section 14.09.130.

- 8. A list of hazardous waste(s) generated and a description of the storage area and procedures for handling and disposal of the wastes.

- 9. Slug discharge control plan for significant industrial users as described in section 14.09.150 shall be submitted and as required by the director for other industrial users.

- 10. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.

- b. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the director.

11. *Certification. A statement, reviewed by the authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and pretreatment requirements.*
12. *Signatory certification. All industrial wastewater discharge permit applications and certification statements must be signed by the authorized representative of the industrial user and contain the applicable certification statement(s) in subsection 14.09.150.H.*
13. *Any other information as may be deemed by the director to be necessary to evaluate the permit application.*

G. *Industrial wastewater discharge permit issuance.*

1. *Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the city's discretion or may be stated to expire on a specific date.*
2. *Where the city is issuing a permit containing a permit specific pretreatment standard or pretreatment requirement not otherwise contained in this chapter, the pretreatment standard or pretreatment requirement shall be noticed for public comment for thirty (30) days in a newspaper of general circulation that provides meaningful public notice or processed through the city council approval process.*
3. *The city shall issue an industrial wastewater discharge permit to the applicant if the city finds that all of the following conditions are met:*
 - a. *The applicant has provided a timely and complete permit application to the city;*
 - b. *The proposed discharge by the applicant is in compliance with the pretreatment standards and pretreatment requirements established in this chapter;*

- c. The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
- d. The proposed discharge by the applicant would not result in a violation by the city of the terms and conditions of its NPDES permit or cause pass through or interference.
4. If the city finds that the condition set out in subsection 3.b. above is not met, the city may, in its discretion, issue an industrial wastewater discharge permit to the applicant if the conditions set out in subsections 3.a., 3.c. and 3.d. above have been met and if the applicant submits, and the city approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable pretreatment standards and pretreatment requirements. At no time shall a discharge be allowed to cause a violation of any general or specific prohibition established in section 14.09.030 nor shall the final compliance date for a categorical pretreatment standard be extended.
5. Any industrial user may file a request for reconsideration of the terms of an industrial wastewater discharge permit and thereafter an appeal, in accordance with the procedures set forth in subsection 14.09.170.C.9.
- H. Denial by city to issue an industrial wastewater discharge permit. Any industrial user denied a permit to discharge by the city may file a request for reconsideration and thereafter an appeal in accordance with the procedures set forth in subsection 14.09.170.C.9.
- I. Transferability. An industrial wastewater discharge permit is issued to a specific industrial user for a specific operation. An industrial wastewater discharge permit may be transferred to a new owner or new operator only if the permittee gives the city at least one-hundred eighty (180) days advance notice to the director and the director approves the industrial wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner or new operator that:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing industrial wastewater discharge permit.

Any succeeding owner or operator shall comply with the terms and conditions of the existing permit until a new permit is issued. The permittee shall notify the city at least thirty (30) days prior to any change of ownership and shall provide a copy of the permit to the new owner. Failure to provide advance notice of a transfer renders the industrial wastewater discharge permit void as of the date of facility transfer and discharge of wastewater prohibited.

14.09.070 - Industrial wastewater discharge permit conditions.

Industrial wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, surcharges, user charges and fees. Any such surcharges, user charges and fees shall be established by city council and set forth in the department service rules.

A. Permits shall contain the following:

1. A statement that indicates the permit's issuance date, expiration date and effective date;
2. A statement on permit non-transferability without, at a minimum, prior notification to the POTW and the new owner or operator agreeing in writing to abide by all terms and conditions of the permit;
3. Effluent limits, including best management practices, based upon applicable pretreatment standards;
4. Self-monitoring, sampling, reporting, notification and record-keeping requirements including, but not limited to, identification of the pollutants or BMPs to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;

5. Statements of applicable administrative, civil and criminal penalties for the violation of pretreatment standards and pretreatment requirements, the permit, this chapter, and any applicable compliance schedule;
6. Requirements to immediately notify the city of any changes at its facility affecting potential for a slug discharge and for the industrial user to immediately report any slug discharges, spills or accidental discharges, including any discharges that may cause problems at the POTW;
7. Permittee's consent to city entering upon, and accessing permittee's facility, property and premises, making the foregoing available to city upon request at any time, and allowing city to perform other activities at or upon the foregoing to effect the purposes of this chapter; and
8. A requirement that permittee comply with all of the provisions set forth in the permit, HMC Title 14, and all applicable federal, state, and local laws and regulations.

B. Permits may also include, as appropriate:

1. Applicable schedule of user charges and fees for the wastewater to be discharged into the POTW;
2. Limits on average and maximum rate and time of discharge or requirements for flow;
3. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
4. Best management practices to control specific pollutants as necessary to meet the objectives of this chapter;
5. Compliance schedules;
6. Requirements to reapply for a new permit prior to expiration of the existing permit;
7. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment

devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

8. Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to the POTW are protected; and
9. Other conditions as deemed appropriate by the director to ensure compliance with all applicable local, state and federal rules and regulations.

14.09.080 - Industrial wastewater discharge permit modification.

The notification of an industrial wastewater discharge permit modification does not stay any wastewater discharge permit condition. The city may modify an industrial wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local pretreatment standards or pretreatment requirements or to reflect changes in applicable state or federal standards;
- B. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
- E. Violation of any terms or conditions of the industrial wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the industrial wastewater discharge permit application or in any required reporting;
- G. To reflect a transfer of the facility ownership and/or operation to a new owner/operator;

- H. To correct typographical or other errors in the industrial wastewater discharge permit; or
- I. Upon request of the permittee, provided such request does not result in a violation of any applicable pretreatment standards or pretreatment requirements, or this chapter.

14.09.090 - Industrial wastewater discharge permit revocation.

A violation of the conditions of a permit, or of this chapter or of applicable state or federal regulations shall be grounds for revocation of such permit by the city. Upon revocation of the permit, any wastewater discharge from the affected industrial user shall be considered prohibited and discharge of such wastewater in violation of this chapter. Additional grounds for revocation of a permit include, but are not limited to, the following:

- A. Failure of an industrial user to accurately disclose or report the wastewater constituents and characteristics of any discharge;
- B. Failure of the industrial user to report significant changes in operations or wastewater constituents and characteristics as required;
- C. Refusal of access to the industrial user's premises for the purpose of inspection or monitoring;
- D. Falsification of records, reports or monitoring results;
- E. Tampering with monitoring equipment;
- F. Misrepresentation or failure to fully disclose all relevant facts in the industrial wastewater discharge permit application;
- G. Failure to pay fines or penalties;
- H. Failure to pay user charges, surcharges, or fees;
- I. Failure to meet compliance schedules;
- J. Failure to pay the direct costs of all labor, equipment and materials incurred by the city to handle, treat, monitor, sample, test, dispose of or remediate the industrial user's indirect discharge;

- K. Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- L. Failure to provide required reports, including but not limited to, a wastewater survey, baseline monitoring report, 90-day compliance report, permit application, self-monitoring report or other permit required reports or notifications within the timeframe required by the city; or
- M. Violation of any pretreatment standard or pretreatment requirement.

14.09.100 - Special agreements and contracts.

No statement contained in this chapter shall be construed as prohibiting special written agreements between the city and any industrial user allowing industrial waste or wastewater of unusual strength or character to be discharged to the POTW, provided said industrial user compensates the city for any additional costs of treatment. Such agreement, however, shall not allow or cause:

- A. Any adverse effect to the POTW;
- B. A violation of the POTW NPDES permit;
- C. A violation of a general or specific prohibition;
- D. A Maximum Allowable Industrial Load (MAIL) to be exceeded;
- E. A violation of state or federal law or regulation; and
- F. Provide any waiver to applicable categorical pretreatment standard.

14.09.110 - Recordkeeping

- A. All industrial users shall retain, and make available to city for inspection and copying, all records, reports, monitoring or other data, applications, permits and all other information and documentation required by this chapter including documentation associated with best management practices.
- B. Industrial users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the industrial user's compliance with any provision of this chapter, or when the industrial user has been specifically and expressly notified of a longer records retention period by the director.

C. *Written reports will be deemed to have been submitted on the date postmarked if mailed by registered or certified mail (return receipt requested). For reports which are not so mailed, the date of receipt of the report by the city shall govern.*

14.09.120 - Confidentiality of information.

- A. *All records, reports, data or other information supplied by any person or industrial user as a result of any disclosure required by this chapter or information and data from inspections shall be available for public inspection except as otherwise provided in this section, 40 CFR section 403.14, and the Nevada Public Records law (NRS chapter 239).*
- B. *These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. "Trade secret" has the meaning ascribed to it in NRS 600A.030. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the industrial user which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped in a reasonably noticeable manner on each page containing such information. The industrial user must demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.*
- C. *Information designated as a trade secret pursuant to this section shall remain confidential and shall not be subject to public inspection unless otherwise required or allowed by NRS chapter 239 or other applicable law. Such information shall be available only to officers, employees or authorized representatives of the city charged with implementing and enforcing the provisions of this chapter and properly identified representatives of the EPA and the NDEP.*
- D. *Effluent data from any industrial user whether obtained by self-monitoring, monitoring by the city or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.*

14.09.130 - Sample collection and analytical methods.

A. Sample collection.

Compliance determinations with respect to prohibitions and limitations in this chapter may be made on the basis of either grab or composite samples of wastewater as specified by the city. Such samples shall be taken at a point or points which the city determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by the city to meet specific circumstances.

B. Sample type.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and based on data that is representative of conditions occurring during the reporting period.

1. Except as indicated in subsections B.2 and B.3 below, the industrial user must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the permitted discharge.
2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (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. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.

3. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 14.09.150, 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 representative sampling data do not exist. Where historical data are available, the city may authorize a lower minimum. The industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and pretreatment requirements.

C. Analytical requirements.

All pollutant analysis, including sampling techniques, to be submitted as part of an industrial wastewater discharge permit application, report, permit or other analyses required under this chapter 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 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 city or other parties approved by the EPA.

D. Records shall include for all samples:

1. The date, exact place, method, and time of sampling and the name of the person(s) taking the samples;
2. The date(s) and time analyses were performed;
3. The name of the person performing the analyses;
4. The analytical techniques/methods used, including method detection limits and QA/QC sample results;
5. All chain-of-custody records; and

6. The results of such analyses.

14.09.140 - Right of entry.

- A. Whenever it shall be necessary for the purposes of this chapter and at no cost to the city, the city may enter upon any industrial user's facility, property, or premises and shall have ready access to all parts of the premises subject to this chapter for the purposes of:
1. Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and pretreatment requirements by an industrial user. Compliance monitoring and inspection shall be conducted at a frequency as determined by the city and may be announced or unannounced;
 2. Setting up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the industrial user's operations;
 3. Examining and copying any records required to be kept under the provisions of this chapter or of any other local, state or federal regulation;
 4. The city may use equipment to photograph, video or otherwise document any areas of the facility as deemed necessary for carrying out the duties of the pretreatment program including, but not limited to, documentation of the industrial user's compliance status and for reinforcement of required written reports. The industrial user shall be allowed to review copies of photographs or videos for confidentiality claims;
 5. Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 6. Sampling any discharge of wastewater into POTW; and/or
 7. Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this chapter, could originate, be stored, or be discharged to the POTW.

- B. The occupant of such property or premises shall render all proper assistance in such activities at no cost to the city. Where an industrial user has security measures in place which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security personnel so that authorized representatives of the city will be permitted to enter without delay to perform their specified functions.
- C. Failure to allow entry or unreasonable delays: In the event the city or other duly authorized representative of the city is refused admission or unreasonably delayed, such refusal or delay is a violation of this chapter and may result in enforcement action as allowed for under this chapter including revocation of the industrial wastewater discharge permit.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
- E. The director shall have the right to utilize any or all remedies and enforcement actions set forth in this chapter, other provisions in the HMC, or otherwise permitted by applicable law or regulation.
- F. Search warrants. If the city has been refused access to a facility, property, or premises, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the Henderson Municipal Court or another court of competent jurisdiction.

14.09.150 - Reporting and notification requirements.

- A. Industrial monitoring reports (IMR) – all significant industrial users.
1. Any significant industrial user or other industrial user required by the city, subject to a federal, state, or city pretreatment standard or pretreatment requirement must submit reports, at a

frequency determined by the city but no less than once per six (6) months, indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards, including reporting of mass where applicable, and the average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial user must submit documentation required by the city or the pretreatment standard necessary to determine compliance status of the industrial user. All industrial monitoring reports must be signed and certified in accordance with subsection 14.09.150.H.

2. For industrial users subject to equivalent mass or concentration limits established by the city, the IMR shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the IMR shall include the industrial user's actual average production rate for the reporting period.
3. All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that the sample results are unrepresentative of its discharge.
4. If an industrial user monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, using the methods and procedures prescribed in section 14.09.130, the results of this monitoring shall be included in the report.
5. The sampling and analyses required for the reporting outlined above may be performed by the city in lieu of the permittee. Where the city itself makes arrangements with the industrial user to collect all the information required for the report, the industrial user will not be required to submit the report.

B. Baseline monitoring reports – categorical industrial users.

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR section 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in subsection B.2 below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall submit to the city a report which contains the information listed in subsection B.2 below. A new source shall report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.
2. Industrial users described above shall submit the information set forth below.
 - a. All information required in subsection 14.09.060.F.
 - b. Measurement of pollutants.
 - (1) The industrial user shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this subsection.
 - (2) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR section 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an

alternate concentration or mass limit has been calculated in accordance with 40 CFR section 403.6(e) this adjusted limit along with supporting data shall be submitted to the city.

- (3) Sampling and analysis shall be performed in accordance with section 14.09.130.
- (4) The city may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (5) The BMR shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (6) Signature and Report Certification. All baseline monitoring reports must be signed in accordance with subsection 14.09.150.H and signed by an authorized representative as defined in subsection 14.09.010.A.

C. 90-day compliance reports – categorical industrial users.

1. New sources: All new sources subject to existing categorical pretreatment standards shall submit a report to the city within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those standards.
2. Existing sources: All existing sources required to comply with newly promulgated categorical pretreatment standards shall submit a report to the city within ninety (90) days of the date on which compliance is required with those standards demonstrating that actual and continuing compliance with such standards has been achieved.
3. Such 90-day compliance report shall contain at a minimum the information required in subsections 5, 6, 7, 10, 11, 12 and 13 of

subsection 14.09.060.F.

D. 24 hour notice and 30 day re-sampling.

If sampling performed by an industrial user indicates a violation of this chapter, the industrial user shall notify the city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the following occurs:

1. The city performs sampling at the industrial user's facility at a frequency of at least once per month.
2. The city performs sampling at the industrial user's facility between the time when the IU performs its initial sampling and the time when the industrial user receives the results of this sampling. Although it is the sole responsibility of the industrial user to verify if the city has performed this sampling, the city will make reasonable efforts to provide industrial user with notice that the city will perform or has performed such sampling.

E. Slug and spill discharges- notification and plan development.

1. Each industrial user shall provide protection from spills and slug discharges of pollutants regulated under this chapter. Facilities to prevent the discharge of spills or slug discharges shall be provided and maintained at the industrial user's expense.
2. Each permitted IU shall report all slug discharges, including any discharge that would violate a prohibition of HMC 14.09.030.
3. The city shall evaluate whether each significant industrial user needs a slug/spill discharge control plan or other action to control spills and slug discharges. The city may require an industrial user to develop, submit for approval, and implement a slug/spill discharge control plan or take such other action that may be necessary to control spills and slug discharges.

4. *A slug/spill discharge control plan shall address, at a minimum, the following:*
 - a. Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;*
 - b. Description of contents and volumes of any process tanks;*
 - c. Description of discharge practices, including non-routine batch discharges;*
 - d. Listing of stored chemicals, including location and volumes;*
 - e. Procedures for immediately notifying the city of any spill or slug discharge. It is the responsibility of the industrial user to comply with the reporting requirements in subsection 14.09.150.F;*
 - f. Procedures to prevent adverse impact from any accidental 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; and*
 - g. Any other information as required by the city.*
5. *Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.*

F. *Reports of potential problems – slug discharges.*

1. *In the case of any changes at its facility affecting potential for a slug discharge as defined in subsection 14.09.010.A, the industrial user shall immediately (but no later than 24 hours after such a change) email and telephone to notify the city of the incident. This notification shall include:*

- a. *Name of the facility;*
- b. *Location of the facility;*
- c. *Name of the caller;*
- d. *Date and time of discharge;*
- e. *Date and time discharge was halted;*
- f. *Location of the discharge;*
- g. *Estimated volume of discharge;*
- h. *Estimated concentration of pollutants in discharge;*
- i. *Corrective actions taken to halt the discharge; and*
- j. *Method of disposal, if applicable.*

2. *Within five (5) working days following such discharge, the industrial user shall, unless waived by the city, submit a detailed written report that includes all of the information contained in subsection F.1 above and any other information describing the cause(s) of the discharge and the measures to be taken by the industrial user to remediate the discharge and prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.*

G. *Reports for other industrial users.*

If the city deems it necessary to assure compliance with provisions of this chapter, any industrial user of the POTW may be required to submit an industrial wastewater discharge permit application, questionnaire or other reports and notifications in a format and timeframe as specified by the city.

H. Signatory certification.

All reports and other submittals required to be submitted to the city shall include the following statement and signatory requirements.

1. The authorized representative of the industrial user signing any application, questionnaire, any report or other information required to be submitted to the city must sign and attach the following certification statement with each such report or information submitted to the city.

"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 ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or the 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 a fine and imprisonment for knowing violations."

2. If the authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section and provided by an authorized representative that meets the definition in subsection 14.09.010.A must be submitted to the city prior to or together with any reports to be signed by the current authorized representative.

I. Compliance schedules.

Should any schedule of compliance be established in accordance with the requirements of this chapter, the compliance schedule shall be as specified in subsection 14.09.060.F.10.

J. Change in discharge or operations.

1. Every permitted industrial user shall file a notification with the city a minimum of fourteen (14) days prior to any planned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW. In addition, this notification shall include changes to:
 - a. Adding or removing processing, manufacturing or other production operations;
 - b. New pollutants used which may be discharged; and
 - c. Changes in the listed or characteristic hazardous waste for which the industrial user has submitted or is required to submit information to the city under this chapter and 40 CFR section 403.12(p).
2. Known or anticipated facility closure. The industrial user is required to notify the city at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality, or volume of its wastewater if that shutdown or closure would cause a violation of an applicable pretreatment regulation.

K. Notification of the discharge of hazardous waste.

1. Any industrial user shall notify the city, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste. Such notification to the city shall be made within the appropriate time frames specified in subsections 14.09.150.D, 14.09.150.F, and 14.09.150.J or within twenty-four (24) hours of becoming aware of the discharge, whichever is shorter.

Such notification must include:

- a. The name of the hazardous waste as set forth at 40 CFR part 261;
- b. The EPA hazardous waste number;
- c. The type of discharge (continuous, batch, or other);

- d. An identification of the hazardous constituents contained in the wastes;
 - e. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
 - f. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
 - g. Certification that the industrial user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
 - h. Signatory certification as required by subsection 14.09.150.H.
2. Any industrial user shall notify the EPA Regional Waste Management Division Manager, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste and meets the reporting criteria specified at 40 CFR section 403.12(p). Notification to the State and EPA is the responsibility of the industrial user and shall be made as required under 40 CFR section 403.12(p). The industrial user shall copy the city on all notifications made to the state of Nevada and EPA.
3. In the case of any new regulation under RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user must notify the city, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
4. This provision does not create a right to discharge any substance not otherwise allowed to be discharged by this chapter, a permit issued hereunder, or any applicable federal or state law.

L. Requests for information.

1. A permittee shall furnish to the city, within the timeframe set by the director, any information which the city may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating an industrial wastewater discharge permit, or to determine compliance with the industrial wastewater discharge permit or this chapter. A permittee shall also, upon request, provide to the city, within the timeframe required by the director, copies of any records that are required by the industrial wastewater discharge permit or this chapter.
2. When requested by the city, any industrial user shall submit information to the director regarding industrial processes, nature and characteristics of wastes and wastewaters generated at the industrial facility, method of disposal of wastes, or other information required by the director to meet the responsibilities under this chapter, state law, and 40 CFR part 403. Failure to provide information within the timeframe specified shall be a violation of this chapter.

14.09.160 - Sector control programs.

A. General requirements.

1. Authority.

By ordinance, the city may establish specific sector control programs for industrial users to control specific pollutants as necessary to meet the objectives of this chapter. Pollutants subject to these sector control programs shall generally be controlled using best management practices.

2. Facility identification and compliance.

The city shall implement procedures to identify industrial users for inclusion into applicable sector control programs. Once identified and included into one or more sector control program, the facility shall be required to comply with the applicable sector control program requirements.

3. Notification to the city by the industrial user and management review.

The city shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure that current sector control program requirements are incorporated and implemented.

The industrial user shall inform the city prior to:

- a. Sale or transfer of ownership of the business;
- b. Change in the trade name under which the business is operated;
- c. Change in the nature of the services provided that affect the potential to discharge sector control program pollutants; or
- d. Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county or other jurisdiction.

4. Inspections.

- a. The city may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with sector control program requirements.
- b. If any inspection reveals non-compliance with any provision of a sector control program requirement, corrective action shall be required pursuant to the applicable sector control program.
- c. Inspection results will be provided in writing to the facility upon request.

5. Closure.

The city may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are currently not being used to discharge to the POTW. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc. of such physical structures.

6. Enforcement and compliance.

a. These requirements form a part of this chapter. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of this chapter.

b. Any costs incurred by the city due to interference, damage, pass through, or maintenance necessary in the treatment and/or collection system shall be paid by the industrial user to the city. The city's costs, including costs of time, labor, overhead, benefits, equipment, materials, sampling, monitoring, testing, and treatment expenses, and use of outside resources or services, incurred in rectifying the interference, damage, pass through, or maintenance shall be billed directly to the owner or the industrial user by the city, and such costs shall become part of the total charges due and owing to the city for wastewater service to the industrial user.

B. Fats, oil and grease best management practices.

1. Applicability: These best management practices establish requirements for any facility the director determines has the potential to discharge floatable or settleable material. The requirements established in this BMP shall apply to facilities where preparation, manufacturing, processing of food or washing/sanitizing of dishes or equipment occurs. Included food establishments may include, but are not limited to, restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes and other facilities that prepare, service or otherwise make foodstuff available for consumption.

2. These facilities shall install and maintain a GGI within ninety (90) days of being notified of such requirement.
3. No food service establishment covered by subsection B.1 above shall discharge or cause to be discharged any wastewater containing free or floating oil and grease, or any discharge containing animal fat or grease by-product in excess of two hundred and fifty milligrams per liter (250 mg/L). Unless otherwise approved by the director, a food service establishment shall install and properly operate and maintain a GGI, implement all required BMPs and not violate a general or specific prohibition as specified in section 14.09.030.
4. A GGI that was legally and properly installed at an industrial user's facility prior to the effective date of this chapter shall be acceptable as an alternative if such device is effective in removing floatable and settleable material and is designed and installed in such a manner that it can be inspected and properly maintained. If the director determines at any time that such GGI is incapable of adequately retaining the floatable and settleable material or if it was installed in such a manner that it cannot be inspected and properly maintained, the industrial user shall install a GGI that complies with all city codes within ninety (90) days after being notified of such requirement.
5. Variance.

 - a. A variance as to the requirements may be granted by the director for good cause. The facility has the burden of proof of demonstrating through data and other information why a variance should be granted. In no case shall a variance result in violation of any pretreatment standard or pretreatment requirement specified in this chapter and applicable to the discharge. The granting of any variance shall be at the sole discretion of the director and may be revoked at their discretion.
 - b. If a variance is granted, the facility shall institute best management practices and other mitigation measures as specified by the director. These BMPs may include, but not be limited to:

- (1) Allow the installation of a HMGI, or continue to allow the use of an HMGI in lieu of installing a GGI, where the HMGI is shown to be effective. If a HMGI is not shown to be effective, the director may require the industrial user to install a GGI.
- (2) All sinks and drains which are connected to the POTW shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the POTW.
- (3) Food grinders are prohibited unless the industrial user installs and properly operates a solids separator prior to discharge to the POTW.
- (4) Biological treatment or enzyme treatment shall not be used unless approved by the director. Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited.
- (5) An employee training program shall be instituted on a periodic basis and for all new employees on FOG waste management.
- (6) Provide quarterly cleaning of its private service line to prevent the buildup of oil, grease and solids or as otherwise specified by the director.
- (7) Submit records of the private service line cleaning as specified by the director.
- (8) Pay the costs incurred by the city or other jurisdiction for accelerated line cleaning on the sewer line providing service between the facility and the POTW, costs to the city for treating the excess strength waste and any costs for sampling and analysis.

6. General control requirements.

Repeal and Replace Henderson Municipal Code Chapter 14.09 - Pretreatment Regulations

- a. A GGI shall be required for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the POTW or cause or contribute to pass through or interference.
- b. It shall be the responsibility of the industrial user and/or owner of the property to contact the city for the purpose of obtaining necessary permits for the installation of a grease removal device or any modifications to the facility's plumbing. Written approval from the city must be obtained prior to installation of the interceptor. The time of review and approval of such permits shall in no way relieve the industrial user from the responsibility of producing a discharge acceptable to the city under the provisions of this chapter.
- c. The design and sizing of GGIs shall be in accordance with applicable city building codes. The GGI shall be designed, sized, installed, maintained and operated so as to accomplish the intended purpose of intercepting pollutants from the industrial user's wastewater and preventing the discharge of such pollutants to the city's wastewater collection system, including pollutants that result in toxic, noxious or malodorous conditions that create a public nuisance or unsafe working conditions, which endanger life or the environment.
- d. Upon change of ownership of any existing facility which would be required to have an interceptor under this chapter, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning GGI is installed.
- e. All sinks which are connected to a GGI shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the GGI. Food grinders are prohibited unless the industrial user installs and properly operates a solids separator prior to the GGI.
- f. The industrial user must ensure interceptors are easily accessible for inspection, cleaning, and removal of FOG.

g. The industrial user must maintain interceptors at their expense and keep them in efficient operating condition at all times by the regular removal of accumulated FOG.

h. Each industrial user that is required to use and maintain a GGI shall keep a record of every time the GGI is pumped, cleaned or repaired. This record shall include the date, the name of the company that pumped or cleaned the GGI and the amount of waste that was removed. Such records shall be maintained on site for at least three (3) years and made available to the director upon request. The removed contents from any GGI shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with federal, state and local regulations.

7. Required maintenance.

a. GGIs shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the fats, oil and grease from the facility's wastewater and prevent the discharge of said materials into the city's POTW. A GGI shall be completely pumped and serviced a minimum of every ninety (90) days, whenever the combined thickness of the floating greases and settled solids is greater than 25% of the hydraulic working capacity of the GGI, if an effluent concentration exceeds 250 mg/L, or if toxic, noxious, malodorous conditions create a public nuisance or unsafe working conditions which endanger health.

b. The city may require more frequent cleaning than that prescribed in subsection B.6.a. above. A variance from the requirement in subsection B.6.a. may be obtained if the industrial user can demonstrate through analytical data that less frequent cleaning is sufficient.

c. Maintenance of grease interceptors shall be done in a workmanlike manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.

- d. *In the event a GGI is not properly maintained by the industrial user, owner, lessee, or other authorized representative of the facility, the city may authorize such maintenance work be performed on behalf of the industrial user. The costs of such maintenance shall be billed directly to the customer on the bill, owner of the premises, or the tenant of the premises at the city's discretion and shall become part of the charges due and owing to the city.*
- e. *Biological treatment or enzyme treatment shall not be a substitute for the servicing of a GGI. Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited.*
- f. *The industrial user must document each pump-out with a waste manifest or trip ticket and kept by the industrial user on site for at least three (3) years.*
- g. *The industrial user must take reasonable steps to assure that all waste is properly disposed of in accordance with federal, state and local regulations (i.e. through a statement certifying proper disposal by the hauler included on the waste manifest or trip ticket for each load).*

C. *Sand/oil separator requirements.*

- 1. *These best management practices establish requirements for any facility that has the potential to discharge petroleum oil, mineral oil, cutting oils, non-food grease and solids. All facilities subject to these BMPs must comply with the requirements which include both the requirement for installation and proper operation and maintenance of a separator and other reporting requirements.*
- 2. *A sand/oil separator that was legally and properly installed at an industrial user's facility prior to the effective date of this chapter shall be acceptable as an alternative if such device is effective in removing floatable and settleable material and is designed and installed in such a manner that it can be inspected and properly maintained. If the director determines at*

any time that such sand/oil separator is incapable of adequately retaining the floatable and settleable material or if it was installed in such a manner that it cannot be inspected and properly maintained, the industrial user shall install a sand/oil separator that complies with all city codes within ninety (90) days after being notified of such requirement.

3. Implementation: These sand/oil separator requirements may be implemented by letter, order or permit.

4. General control requirements.

a. A sand/oil separator shall be required for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the POTW or cause or contribute to pass through or interference.

b. It shall be the responsibility of the industrial user and owner of the property, business or industry or an authorized representative of the industrial user to contact the city for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the city must be obtained prior to installation of the separator and meet all applicable building codes. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

c. Upon change of ownership of any existing facility which would be required to have a separator under this chapter, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning sand/oil separator is installed.

d. Toilets, urinals and similar fixtures shall not discharge through a sand/oil separator. Such fixtures shall be plumbed directly into the building sewer and waste system.

- e. The industrial user shall ensure the sand/oil separator is easily accessible for inspection, cleaning, and removal of sand, oils and other accumulated wastes.
- f. The industrial user shall maintain separators at their expense and keep in efficient operating condition at all times by the regular removal of waste materials.
- g. Each industrial user that is required to use and maintain a sand/oil separator shall keep a record of every time the sand/oil separator is pumped, cleaned, serviced or repaired. This record shall include the date, the name of the company that pumped or cleaned the sand/oil separator and the amount of waste that was removed. Such records shall be maintained on site for at least three (3) years and made available to the director upon request. The removed contents from any sand/oil separator shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with federal, state and local regulations.

5. Required maintenance.

- a. Sand/oil separators shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the sand and oil from the industrial user's wastewater and prevent the discharge of said materials into the city's POTW. A sand/oil separator shall be completely pumped and serviced at minimum once per twelve (12) months or more frequently as necessary. The industrial user should periodically check the separator for the accumulation of pollutants or solids to avoid exceeding the capacity of the separator.
- b. The city may require more frequent cleaning. A variance from this requirement may be obtained when the industrial user can demonstrate with analytical data that less frequent cleaning is sufficient.
- c. Maintenance of sand/oil separators shall be done in a workman-like manner only by a business/professional

normally engaged in the servicing of such plumbing fixtures.

- d. In the event a separator is not properly maintained by the industrial user, owner, or lessee, the city may authorize such maintenance work be performed on behalf of the facility. The costs of such maintenance shall be billed directly to the customer and shall become part of the charges due and owed to the city.
- e. The industrial user must document each pump-out with a waste manifest or trip ticket and keep on site for at least three (3) years.
- f. The industrial user must take reasonable steps to assure that all waste is properly disposed of in accordance with federal, state and local regulations (i.e. through a statement certifying proper disposal by the hauler included on the waste manifest or trip ticket for each load).
- g. Each industrial user that is required to use and maintain a sand/oil separator shall keep a record of every time the sand/oil separator is pumped or cleaned or repaired. This record shall include the date, the name of the company that pumped or cleaned the sand/oil separator and the amount of waste that was removed. Such records shall be made available to the director upon request. The removed contents from any sand/oil separator shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with federal, state and local regulations.

14.09.170 - Compliance and enforcement.

A. Enforcement response plan.

The city may adopt policies and procedures as set forth in the city's pretreatment enforcement response plan for carrying out the provisions of this chapter, provided that such policies and procedures are not in conflict with this chapter or any applicable state or federal law or regulation.

B. Publication of industrial users in significant noncompliance.

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice, a list of the significant industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards or pretreatment requirements. In addition, any industrial user found to be in significant noncompliance with subsections 3, 4 or 8 below shall also be published in the newspaper. One or more of the following criteria shall be used to define significant noncompliance:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or pretreatment requirement, including instantaneous limits.
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements taken for the same pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or pretreatment requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD₅, TSS, FOG, and 1.2 for all other pollutants except pH).
3. Any other violation of a pretreatment standard or pretreatment requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW 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).
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the exercise of the city's emergency authority to halt or prevent such a discharge.
5. Failure to meet, within ninety (90) days after the schedule date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
7. Failure to accurately report noncompliance.
8. Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines may adversely affect the operation or implementation of the pretreatment program.

C. Administrative enforcement actions.

1. Notice of violation (NOV).

Whenever the director finds that an industrial user has violated or continues to violate, any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the director may serve upon such industrial user a written notice of violation. Within five (5) working days of the receipt of such notice, an explanation of the violation and a plan for satisfactory correction and prevention of further violations shall be submitted to the director. Submission of such a plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

2. Administrative order.

When the city finds that an industrial user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the city may issue an administrative order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a specific time. If the industrial user does not come into compliance within the time provided,

sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. An administrative order may not extend the deadline for compliance established for a pretreatment standard or pretreatment requirement, nor does such an order relieve the industrial user of liability for any violation, including any continuing violation. Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

3. Consent order.

The city may enter into a consent order, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. Such documents shall include specific actions to be taken by the industrial user to correct the noncompliance within a time period specified by the document. A consent order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the city and the industrial user. A consent order shall have the same force and effect as an administrative order and shall be judicially enforceable.

4. Show cause hearing.

- a. The director may order an industrial user which has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or pretreatment requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return

receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

- b. After the director has reviewed the evidence, the director may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate to correct the violation may be issued.

5. Cease and desist order.

- a. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or pretreatment requirement, or that the industrial user's past violations are likely to recur, the director may issue a cease and desist order to the industrial user directing it to cease and desist all such violations and directing the industrial user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

- b. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

6. Administrative fines.

- a. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the director may fine such industrial user in an amount not to exceed one thousand two hundred dollars (\$1,200). Such fines shall be assessed on a per-violation, per-day basis.
- b. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

7. Suspension of service.

- a. Endangerment to health or welfare of the community. Whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community, the city may (with or without prior notice) immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the city, any area under jurisdiction of the city, the POTW of the city or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the POTW.
- b. Endangerment to environment or treatment works. The city, after written notice to the industrial user may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the city, any area under jurisdiction of the city, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the POTW, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
- c. Any person notified of a suspension of wastewater service and/or the industrial wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city

shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to individuals or the environment. The city may reinstate the industrial wastewater discharge permit and/or the wastewater service upon proof of the elimination of the non-complying discharge.

d. A detailed written statement submitted by the industrial user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be provided to the city within five (5) days of the date of occurrence. Suspension of service shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

8. Revocation of industrial wastewater discharge permit.

Pursuant to section 14.09.090, a violation of the conditions of an industrial wastewater discharge permit or of this chapter or of applicable state or federal regulations shall be reason for revocation of such permit by the city. Upon revocation of the permit, any wastewater discharge from the affected industrial user shall be considered prohibited and discharge of such wastewater in violation of this chapter.

9. Continuous violations.

With respect to violations of this chapter that are continuous with respect to time, each day that the violation continues is a separate violation. With respect to violations of this chapter that are not continuous with respect to time, each prohibited act and/or each failure to perform a required act is a separate violation.

10. Administrative enforcement: request for reconsideration; appeals.

a. Any industrial users directly aggrieved by an administrative enforcement action taken by the city under chapter 14.09 may file a request for reconsideration. All requests for reconsideration (1) shall be made by the aggrieved party submitting a

written request for reconsideration to the director that identifies the action taken or decision made by the city that the aggrieved party wants to be reconsidered, sets forth in detail the facts supporting the request for reconsideration, and identifies any relief requested; (2) shall be served personally or by registered or certified mail, return receipt requested, on the director; and (3) must be received by the director on or before the tenth day after the city takes the action or makes the decision that the aggrieved party wants to be reconsidered.

b. Within ten (10) days after the director receives a request for reconsideration in accordance with subsection 14.09.170.C.9.a, the director may modify the action taken. Any such modification must be in writing, be made within twenty (20) days of the director's receipt of that request for reconsideration, and served on the aggrieved party that made the request personally or by registered or certified mail, return receipt requested.

c. If a decision made by the director in accordance with subsection 14.09.170.C.9.b is unsatisfactory to the aggrieved party requesting reconsideration, the aggrieved party may, within ten (10) days after receiving the director's decision, file a written appeal to the city manager with the city clerk. The written appeal shall be decided by the city manager within thirty (30) days from the date of filing, and the city manager's decision shall be deemed to be the final administrative action on such appeal. The director's decision shall remain in effect during such period of appeal.

D. Public nuisance.

Any condition caused by a user or permitted by a user to exist in violation of any provision of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance per se.

E. Judicial enforcement remedies.

1. Injunctive relief.

When the city finds that an industrial user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or pretreatment requirement, the city may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater discharge permit, order, or other requirement imposed by this chapter on activities of an industrial user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the industrial user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

2. Civil penalties.

- a. An industrial user who has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or pretreatment requirement shall be liable to the city for a civil penalty no less than one thousand dollars (\$1,000) and not to exceed ten thousand dollars (\$10,000) per day per violation. With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense.
- b. Filing a lawsuit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an industrial user.

3. Civil/administrative fine pass through.

In the event that an industrial user discharges such pollutants which cause the city to violate any condition of its NPDES permit and the city is fined by the EPA or the state of Nevada for such violation, then such industrial user shall be fully liable for the total amount of the fine assessed against the city by the EPA and/or the state of Nevada.

4. Criminal penalties.

- a. An industrial user that willfully, knowingly, or negligently violates a provision of this chapter, a provision of any order issued hereunder, a provision of an industrial wastewater discharge permit issued hereunder, a pretreatment standard, or a pretreatment requirement is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) per day for each violation and/or by imprisonment in the Henderson Detention Center for not more than six months. In lieu of all or part of the foregoing punishment which may be imposed, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087 and, as applicable, to pay restitution in accordance with NRS 176.033. If a corporation is convicted of a violation, the corporation is punishable by a fine not exceeding \$1,000.00 and, as applicable, shall pay restitution in accordance with NRS 176.033, unless otherwise provided by law or the code. With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense. With respect to violations that are not continuous with respect to time, each prohibited act and/or each failure to perform a required act is a separate offense.
- b. The city may refer violations that may warrant criminal prosecution to the U.S. Attorney General's Office, State Attorney General, EPA Criminal Investigation Division or other appropriate agency. This referral shall not preclude the city from taking a parallel administrative or civil enforcement action.

14.09.180 - Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive of any other remedies that the city may have under the code or provisions of state or federal law. The city may take any, all, or any combination of these actions against a non-compliant industrial user. Enforcement of violations under this chapter will generally be in accordance with the city's pretreatment enforcement response plan. However, the city may take any other action

against an industrial user when the circumstances warrant and may take more than one enforcement action against any non-compliant industrial user.

14.09.190 - No waiver.

The failure of the city to discover violations and/or to take action to enforce any requirement, including but not limited to the assessment and collection of applicable charges, surcharges, fees, fines and penalties, shall not constitute a forfeiture or waiver of the city's right to take appropriate action at any time thereafter. This entitlement shall be retained by the city as a condition of service.

14.09.200 - Regulation of industrial users from outside jurisdictions.

A. Outside jurisdictions and inter-local agreements.

1. In order for the city to effectively implement and enforce pretreatment standards and pretreatment requirements for all industrial users discharging to the POTW and as required by 40 CFR section 403.8(f), the city shall enter into pretreatment ILA with contributing jurisdictions as necessary and as provided in NRS 277.180. Prior agreements shall be unaffected by these requirements until such time as the city determines that modifications are necessary.
2. Prior to entering into an ILA under this section, the city shall seek to obtain the following information from the contributing jurisdiction(s):
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;
 - b. An inventory of all sources of indirect discharge located within the contributing jurisdiction that are discharging to the POTW;
 - c. A requirement that the contributing jurisdiction submit an updated user inventory on at least an annual basis if such jurisdiction has non-domestic users;
 - d. A requirement that the contributing jurisdiction provide the city with access to all information that the

contributing jurisdiction obtains regarding effluent quantity and quality from non-domestic users; and

- e. Other requirements as necessary for the city to effectively administer and enforce the pretreatment program.

B. Industrial users in outside jurisdictions with no ILA in-place.

Until such time as the city and a jurisdiction enter into an ILA for pretreatment program delegation, the city shall have the option to exercise any of the following options:

1. Prohibit the discharge of non-domestic wastewater from an industrial user located in another jurisdiction.
2. Request the jurisdiction to issue a permit or order to the industrial user that is equivalent to the industrial wastewater discharge permit and all pretreatment standards and pretreatment requirements required by the city.
3. Enter into a contract with the industrial user that requires the industrial user to comply with all pretreatment standards and pretreatment requirements within chapter 14.09 and in an industrial wastewater discharge permit issued by the city to the industrial user.

14.09.210 - Affirmative defenses to discharge violations.

A. Bypass.

Bypass is prohibited, and industrial users are subject to and shall comply with all provisions concerning bypass in 40 CFR section 403.17, which provisions and requirements are incorporated into this chapter by reference, including an industrial user's obligation to provide the city (as the control authority) notices. The director may take an enforcement action against an industrial user, however an industrial user shall have any defense available to it under 40 CFR section 403.17, provided it complies with all procedures and requirements in 40 CFR section 403.17 to establish such a defense.

B. Upset.

An upset shall constitute an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards, provided an industrial user complies with all procedures and requirements in 40 CFR section 403.16 to establish such a defense. The provisions and requirements in 40 CFR section 403.16 are hereby incorporated into this chapter by reference.

C. Burden of proof

In any enforcement proceeding, the industrial user seeking to establish a defense under section 14.09.210 shall have the burden of proof.

SECTION 2. In accordance with 40 CFR section 403.18(c)(2), this Ordinance shall be effective upon approval by the United States Environmental Protection Agency.

SECTION 3. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 4. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 5. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on July 13, 2018, in the Review Journal.

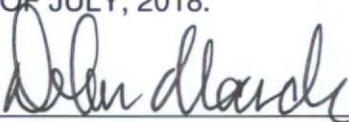
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Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

PASSED, ADOPTED, AND APPROVED THIS 10TH DAY OF JULY, 2018.



Debra March, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on June 19, 2018, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

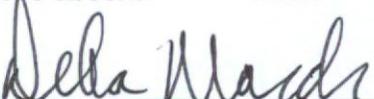
"COUNCIL AS A WHOLE"

Thereafter on July 10, 2018, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held July 10, 2018, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

Debra March, Mayor
Councilmembers:
John F. Marz
Gerri Schroder
Dan K. Shaw
Dan H. Stewart

Those voting nay: None
Those abstaining: None
Those absent: None



Debra March, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk