

**ORDINANCE NO. 2022-30**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING CITY CODE 7, HEALTH AND SANITATION, CHAPTER 02-001-0010, *INDUSTRIAL SELF-MONITORING*; AND CHAPTER 02-001-0012, *SIGNATORY REQUIREMENTS*; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, the City of Flagstaff is required by the Arizona Department of Environmental Quality to manage waster; and

WHEREAS, the City of Flagstaff has established policies, codes and regulations related the treatment of wastewater; and

WHEREAS, the City of Flagstaff continues to create and improve policies, codes and regulations related to the treatment of wastewater; and

WHEREAS, the City of Flagstaff requires industrial users of the City's wastewater treatment system to comply with said policies, codes and regulations; and

WHEREAS, the requirements found in Flagstaff's City Code related to industrial self-monitoring are updated when needed; and

WHEREAS, Section 7-02-001-0010 of the Flagstaff City Code which is entitled "Industrial Self-Monitoring" and Section 7-02-001-0012 of the Flagstaff City Code which is entitled "Signatory Requirements" both contain numerous regulations related to industrial users; and

WHEREAS, from time to time, the City Council for the City of Flagstaff can update, add to, or amend the Industrial Self-Monitoring and Signatory Requirements to provide for additional methods and requirements improving the same; and

WHEREAS, the City Council has determined that industrial self-monitoring and the signatory requirements related thereto should be regulated to further improve wastewater treatment in the City of Flagstaff.

**ENACTMENTS:**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. City Code Title 7, *Health and Sanitation*, Chapters 02-001-0010, *Industrial Self-Monitoring*, is hereby amended as follows:

**7-02-001-0010 Industrial Self-Monitoring**

A. Significant industrial users, at the user's expense, must provide safe and convenient

access for sampling by the City. A City approved manhole must be provided from which a sample that is representative of the total discharge can be taken. There must be unobstructed access to the open flow in the manhole so that a grab sample can be taken and so that sampling equipment can be set up in the manhole.

B. Sampling and analysis must be performed by significant industrial users, at their own expense, at least twice each year, in two (2) separate quarters, (January – March and July – September), and results of such sampling submitted to the City before the last day of each respective quarter or as directed by the City.

C. If a test result is not within the limits of this chapter or the categorical standards from any semiannual sampling, completed by the permitted industrial user, the industrial user shall immediately notify the City within twenty-four (24) hours of becoming aware of the violation (i.e., issuance of final lab report). The industrial user, or the City if they so choose, shall repeat the sampling AND ANALYSIS AND SUBMIT THE RESULTS OF THE REPEAT ANALYSIS within thirty (30) days ~~of~~ after becoming aware of the violation, or more often if it is determined to be necessary by the City.

D. Grab samples must be used when sampling for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics.

E. Twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques, where feasible. The City may waive flow-proportional composite sampling for any industrial user that demonstrates that flow proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

F. The flow must be measured by the industrial user at the time that the sample is taken, according to 40 CFR 403.12.

G. The methods of sampling must be performed in accordance with 40 CFR 136 and any other applicable Federal, State, or local requirements. The sampling location and type must be approved by the City. An authorized representative of the industry (see Section 7-02-001-0012) shall sign and submit with these sample results, a statement verifying the validity of the methods and location.

H. All records of sampling, analysis and flows must be kept by the industrial user and the City for at least three (3) years. All records must be available to the City upon request. THIS PERIOD OF RETNETION SHALL BE EXTENDED DURING THE COURSE OF ANY UNRESOLVED LITIGATIONS REGARDING THE INDUSTRIAL USWER OR POTW OR WHEN REQUESTED BY THE STATE DIRECTOR OR THE EPA REGIONAL ADMINISTRATOR.

SECTION 2. City Code Title 7, *Health and Sanitation*, Chapters 02-001-0012, *Signatory Requirements*, is hereby amended as follows:

#### **7-02-001-0012 Signatory Requirements**

A. The reports required by this chapter must be signed as follows:

1. By a responsible corporate officer, if the industrial user submitting the reports is a

corporation. For the purpose of this subsection, a responsible corporate officer means:

- a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - b. The manager of one (1) or more manufacturing, production, or operation 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 INITIATE AND DIRECT 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 CONTROL MECHANISM REQUIREMENTS; AND~~ employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second quarter one thousand nine hundred eighty dollars (\$1,980.00)), if WHERE authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. By a general partner or proprietor if the industrial user submitting the reports is a partnership or sole proprietorship respectively.
  3. By a duly authorized representative of the individual designated in subsection (A)(1) of this section if:
    - a. The authorization is made in writing by the individual described in subsection (A)(1) of this section;
    - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
    - c. The written authorization is submitted to the City of Flagstaff, Water Services Division.
  4. If an authorization under subsection (A)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of subsection (A)(3) of this section must be submitted to the Division prior to or together with any reports to be signed by an authorized representative.

### SECTION 3. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

**SECTION 4. Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference 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 thereof.

**SECTION 5. Clerical Corrections**

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

**SECTION 6. Effective Date**

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 15th day of November, 2022.

---

MAYOR

ATTEST:

---

CITY CLERK

APPROVED AS TO FORM:

---

CITY ATTORNEY