

ORDINANCE NO. 2021- _____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTION 201.64 (DEFINITIONS; CONSTRUCTION AND INTERPRETATION) AND CREATING SECTION 201.681 (DENTAL FACILITIES) OF PART III (THE INDIAN RIVER COUNTY INDUSTRIAL PRETREATMENT REGULATIONS ORDINANCE) OF CHAPTER 201 (COUNTY WATER AND SEWER SERVICES) OF THE CODE OF INDIAN RIVER COUNTY IN ORDER TO INCLUDE REGULATIONS OF DISCHARGES FROM DENTAL FACILITIES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:

Section 1. Enactment Authority.

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

Section 2. Amendment of Section 201.64 (Definitions; construction and interpretation) and Creation of Section 201.681 (Dental Facilities) of Part III (The Indian River County Industrial Pretreatment Regulations Ordinance) of Chapter 201 (County Water and Sewer Services).

New language indicated by underline, and deleted language indicated by ~~strikethrough~~.

Part III (The Indian River County Industrial Pretreatment Regulations Ordinance) of Chapter 201 (County Water and Sewer Services (Regulatory commissions and boards) of the Code of Indian River County, Florida is hereby amended to read as follows:

CHAPTER 201.- COUNTY WATER AND SEWER SERVICES

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PART III. - THE INDIAN RIVER COUNTY INDUSTRIAL PRETREATMENT REGULATIONS ORDINANCE

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Section 201.64.- Definitions; construction and interpretation.

- (A) Unless the context specifically indicates otherwise, the meaning of the following terms used in this part shall be defined as follows:
- (1) Act: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- (2) Amalgam separator: a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.
- (3) Amalgam waste: Non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.
- (4) ANSI/ADA Standard No. 108: The American National Standards Institute and American Dentistry association standard for amalgam separators.
- (25) Approval authority: The State of Florida Department of Environmental Protection ("FDEP").
- (36) Best management practices or "BMPs" mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsections 62-625.400(1)(a) and (2), F.A.C. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, industrial sludge or waste disposal, or drainage from raw materials storage.
- (47) Categorical industrial user means an industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, as of July 1, 2009, hereby adopted and incorporated by reference.
- (58) Categorical pretreatment standards: Any regulation containing pollutant discharge limits promulgated by U.S. Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act that apply to a specific category of users and appear in 40 CFR Chapter I, Subchapter N, Parts 405—471.

(~~69~~) *Control authority*: The agency, service, organization or authority with the responsibility of control of the industrial pretreatment program.

(~~710~~) *Cooling water*: The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(~~811~~) *Daily maximum*: The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(~~912~~) *Director*: The director of the county's department of utilities services or the director's designee.

(~~4013~~) *Domestic wastewater*: Wastewater derived principally from dwellings, business buildings, institutions, and other non-industrial sources.

(~~4414~~) *Environmental Protection Agency or EPA*: The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official, of such agency.

(~~4215~~) *Existing Source*: Any source of discharge, the construction or operation of which began before publication by EPA of proposed categorical pretreatment standards, and to which categorical pretreatment standards will be applicable if the categorical pretreatment standard is thereafter promulgated in accordance with Section 307 of the Act. With respect to section 201.681, any facility subject to this Section whose first discharge to the sewer collection system occurred on or before July 14, 2017.

(~~4316~~) *Grab sample*: A sample that is taken from a waste stream without regard to the flow in the waste stream and taken over a time period not to exceed fifteen (15) minutes.

(~~4417~~) *Hazardous waste pharmaceutical*: A pharmaceutical that is a solid waste, as defined in Title 40 of the Code of Federal Regulations (40 CFR) section 261.2, and exhibits one (1) or more characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.

(~~4518~~) *Healthcare facility*: Any person that is lawfully authorized to:
a. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

b. Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals.

~~(4619)~~ *Indirect discharge* or *discharge*: The introduction of pollutants into the publicly-owned treatment works from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

~~(4720)~~ *Industrial user*: Any user other than a domestic wastewater user.

~~(4821)~~ *Industrial wastewater*: Any discharge to the POTW other than segregated domestic wastes or wastes from sanitary conveniences.

~~(4922)~~ *Instantaneous maximum allowable discharge limit*: The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

~~(2023)~~ *Interference*: A discharge that, alone or in conjunction with a discharge or discharges from other sources, both: (a) inhibits or disrupts the POTW, its treatment processes or operations, or its domestic wastewater residuals processes, use or disposal; and (b) is a cause of a violation of any requirement of the county's NPDES or FDEP permits (including an increase in the magnitude or duration of a violation), or prevents use or disposal of domestic wastewater residuals by the county in compliance with F.S. ch. 403 and FDEP rules.

(24) ISO 11143: The International Organization for Standardization's standard for amalgam separators.

~~(2425)~~ *Local limit*: Specific discharge limits developed and enforced by the county upon industrial or commercial facilities to implement the general and specific discharge prohibitions as referenced in [Section 201.65](#) of this chapter and as listed in 40 CFR 403.5(a)(1) and (b).

~~(2226)~~ *Medical waste*: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(2327) *Monthly average*: The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(2428) *New Source*:

(a) Any building, structure, facility, or installation from which there is or may be a discharge, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (i) The building, structure, facility, or installation is constructed at a site at which no other source of discharge is located;
- (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (iii) The production or wastewater generating processes of the building structure, facility, or installation are substantially independent of an existing source of discharge 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 shall be considered;

(b) 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 subparagraphs (a)(2) or (a)(3) above but otherwise alters, replaces, or adds to existing process or production equipment; or

(c) Construction of a new source, as defined herein, has commenced if the owner or operator has:

- (i) Begun, or caused to begin as part of a continuous on-site construction program (a) any placement, assembly, or installation of facilities or equipment, or (b) 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

- (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are 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 definition.

(d) With respect to those dental facilities regulated per section 201.681, any facility subject to this Section whose first discharge to the sewer system occurs after July 14, 2017 and must comply immediately upon commencement of discharge.

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Section 201.681.- Dental Facilities.

- (a) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following reporting and waste management practices:
 - (1) For existing sources, per 40 CFR § 441.50, the One-Time Compliance Report for Dental Dischargers was due no later than October 12, 2020 or no later than 90 days after transfer of ownership.
 - (2) For new sources, the One-Time Compliance Report is due within 90 days of the start of discharge to the sewer collection system.
 - (3) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.
 - (4) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions and shall maintain training records that shall be available for inspection by the superintendent or designee during normal business hours.
 - (5) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.
 - (6) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.
 - (7) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

(b) All owners and operators of dental vacuum suction systems, except as set forth in subsections (c) and (d) of this section, shall comply with the following:

(1) An ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator or equivalent device shall be installed for each dental vacuum suction system on or before July 14, 2020; provided, however, that all dental facilities that are newly constructed on and after the effective date of this section shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108 certified as capable of removing a minimum of 95 percent of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO-certified.

(2) Proof of certification and installation records shall be submitted to the Director, within 30 days of installation.

(3) Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request therefor by the superintendent or designee during normal business hours. Records shall be maintained for a minimum of three years.

(c) Facilities with vacuum suction systems that meet all the following conditions may apply to the superintendent for an exemption to the requirements of subsection (b) of this section:

(1) The system is a dry vacuum pump system with an air-water separator.

(2) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.

(3) Evidence of regular pump outs by a licensed hauler (a minimum of once a year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the superintendent during normal business hours.

(4) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

An owner or operator whose facility meets conditions (1) through (4) may apply for this exemption by written letter to the Director. The Director will review the

system and, if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (c) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with subsection (b) of this section before commencing further operation.

(d) Dental dischargers that exclusively practice one or more of the following specialties are not subject to the requirements of this section: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prosthodontistry.

(e) Dental practices that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, are exempt from the requirements of this part, provided the dental practice

(1) Submits the following statement to the County, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance deadline identified in Section 201.681(a):

“This facility is a dental discharger subject to this rule and does not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances. I am a responsible corporate officer, a general partner or proprietor (if the facility is a partnership or sole proprietorship), or a duly authorized representative in accordance with the requirements of 40 CFR 403.12(l) of the above named dental facility, and certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”;

(2) Removes dental amalgam for limited emergency or unplanned, unanticipated circumstances, less than 3 times per year and as no more than .5% of dental procedures; and

(3) The dental practice notifies the County of any changes affecting the applicability of this certification.

(f) Disposal of hauled waste from dental facilities to the sanitary sewer is prohibited in accordance with Section 201.65 of the Code.

(g) Dental dischargers that fail to comply with this section will be considered significant industrial users, and will be subject to the requirements herein, including the compliance monitoring, reporting requirements, and enforcement remedies identified in Sections 201.73 – 201.92 of the Code.

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Section 3. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 5. Codification. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

Section 6. Effective Date. This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the ___ day of September, 2021, for a public hearing to be held on the 21st day of September, 2021, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman, Joseph E. Flescher	_____
Vice-Chairman, Peter D. O'Bryan	_____
Commissioner Susan Adams	_____
Commissioner Joseph H. Earman	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ___ day of _____, 2021.

**BOARD OF COUNTY
COMMISSIONERS OF INDIAN RIVER
COUNTY, FLORIDA**

By: _____
Joseph E. Flescher, Chairman

**ATTEST: Jeffrey R. Smith, Clerk
and Comptroller**

By: _____
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the _____
day of _____, 2021.