

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTIONS 201.64 (DEFINITIONS; CONSTRUCTION AND INTERPRETATION) AND 201.65 (PROHIBITED DISCHARGE STANDARDS) 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, FLORIDA ESTABLISHING THE PROHIBITION OF THE DISCHARGE OF HAZARDOUS WASTE PHARMACEUTICALS FROM HEALTHCARE FACILITIES AND REVERSE DISTRIBUTORS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS, AND 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 Section 201.65 (Prohibited discharge standards) 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, Florida.

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

Section 201.64 (Definitions; construction and interpretation) and Section 201.65 (Prohibited discharge standards) 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, Florida is hereby amended to read as follows:

CHAPTER 201. - COUNTY WATER AND SEWER SERVICES

* * *

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

* * *

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:

* * *

- (13) *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.

ORDINANCE NO. 2020-

- (14) 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 or more characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.
- (15) 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.
- Healthcare facility does not include pharmaceutical manufacturers.
- (146) *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.
- (157) *Industrial user:* Any user other than a domestic wastewater user.
- (168) *Industrial wastewater:* Any discharge to the POTW other than segregated domestic wastes or wastes from sanitary conveniences.
- (179) *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.
- (1820) *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.
- (1921) *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).
- (202) *Medical waste:* Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding,

ORDINANCE NO. 2020-

surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

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

(224) *New source*:

* * *

(235) *Pass through*: The discharge through the publicly owned treatment works into waters of the state or of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the county's NPDES permits (including an increase in the magnitude or duration of a violation).

(246) *Person* means any individual, partnership, limited liability company, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

(27) *Pharmaceutical*: any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by Title 21 of the Code of Federal Regulations part 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or sharps.

(258) *Pollutant*: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, [as such terms are herein defined] toxicity, or odor).

(269) *POTW or publicly-owned treatment works*: A "treatment works," as defined by Section 212 of the Act that is owned by Indian River County. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that convey wastewater to a treatment plant.

ORDINANCE NO. 2020-

- (2730) *Pretreatment*: 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. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (2831) *Pretreatment requirements*: Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (2932) *Pretreatment standards or standards*: Prohibited discharge standards, categorical pretreatment standards, and Local Limits.
- (303) *Prohibited discharge standards or prohibited discharges*: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 201.65 hereof.
- (344) Responsible corporate officer:
- * * *
- (35) Reverse distributor: Any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.
- (326) *Septic tank waste*: Any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (337) *Significant industrial user*: Any user of the POTW that is subject to categorical pretreatment standards; or a user that (a) discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); (b) contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (c) is designated as such by the county, on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. Upon a finding that an industrial user meeting criteria (2)(a) or (b) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the county may, at any time, on its own initiative or in response to a petition received from an industrial user and in accordance with Rule 62-625.500(2)(e), FAC, if applicable, determine that such industrial user is not a significant user.
- (348) Slug: Any discharge of any substance released in/or at a rate or concentration which, could cause a violation of the prohibited discharge standards.

ORDINANCE NO. 2020-

- (359) *Slug discharge*: Any discharge of a nonroutine, episodic nature, which has a reasonable potential to cause interference or pass through, or in any other way violate the wastewater facility's regulations, Local Limits or permit conditions.
- (3640) *Toxic pollutant*: Any pollutant or combination of pollutants listed as toxic by the administrator of the Environmental Protection Agency under the provisions of Section 301(a) of the Act and listed in 40 CFR 401.15.
- (3741) *Treatment plant* means that portion of a wastewater facility which is designed to provide treatment (including recycling and reclamation) of domestic and industrial wastewater.
- (3842) *Upset*: An exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the standards adopted under this Part III or established as part of its wastewater discharge permit, due to factors beyond the reasonable control of the user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations thereof.
- (3943) *User or industrial user*: A source of indirect discharge.
- (404) *Wastewater*: Industrial or domestic wastewaters from dwellings, commercial buildings, industrial facilities, and institutions together with any groundwater, surface water and stormwater that may be naturally present, whether treated or untreated, which is discharged into the POTW.
- (445) *Wastewater discharge permit*: Industrial wastewater discharge permit issued by the county to all significant industrial users pursuant to this part.
- (426) *Wastewater standard parameters*:

* * *

Section 201.65. - Prohibited discharge standards.

- (A) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (B) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

* * *

(16) Any hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.

Section 3. 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.

ORDINANCE NO. 2020-

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

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 15th day of March, 2020, for a public hearing to be held on the 7th day of April, 2020, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Susan Adams	_____
Vice-Chairman Joseph E. Flescher	_____
Commissioner Tim Zorc	_____
Commissioner Peter D. O'Bryan	_____
Commissioner Bob Solari	_____

The Chairman thereupon declared the ordinance duly passed and adopted this 7th day of April, 2020.

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

By: _____
Susan Adams, 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 April, 2020.