

Submitted By: Rusella Bowes-Johnson

Presentation By: Sean Lanier

Department: Water & Sewer

STAFF RECOMMENDATION (Motion Ready):

Adopt Ordinance 2022-22 to amend and add ordinances under Chapter 70 Article I. In General, Section 70-39, 70-51, and 70-59 in accordance with new Environmental Protection Agency rules.

OCALA'S RELEVANT STRATEGIC GOALS:

Operational Excellence.

PROOF OF PUBLICATION:

N/A

BACKGROUND:

The Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP) regulation changes require updates to the existing sewer use ordinance. These updates allow for enforcement of EPA pretreatment standards to reduce discharges of mercury from dental offices and to prohibit discharges of pharmaceuticals into publicly owned treatment works (PTOW). This agenda item is brought forth in accordance with FDEP regulations.

Staff recommends the following changes and additions to Chapter 70, Article I, In General:

1. To clearly define hazardous waste pharmaceutical and healthcare facility under Sec. 70-39.
2. To add prohibited discharge standards under Sec. 70-51 (c).
3. To add requirements for dental facilities that remove and place amalgam fillings under Sec. 70-59.

FINDINGS AND CONCLUSIONS:

Staff recommends adoption of the new ordinance as proposed.

FISCAL IMPACT:

N/A

PROCUREMENT REVIEW:

N/A

LEGAL REVIEW:

The ordinance has been reviewed and approved for form and legality by the Assistant City Attorney, Robert W. Batsel, Jr.

ALTERNATIVE:

- Deny
- Table
- Direct Staff Otherwise

ORDINANCE 2022-22

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING CHAPTER 70, “UTILITIES”; AMENDING SECTION 70-32 “DEFINITIONS”; AMENDING 70-51 “PROHIBITED DISCHARGE STANDARDS”; ADDING SECTION 70-59 “REQUIREMENTS FOR DENTAL FACILITIES THAT REMOVE OR PLACE AMALGAM FILLINGS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Agency has amended and added updates for the Dental Amalgam Rule, 40 CFR 441 and the pharmaceutical hazard waste ban, 40 CFR 266.505; and

WHEREAS, in accordance with paragraph 62-625.500(2)(a), F.A.C., the Control Authority shall operate under legal authority enforceable in Federal, State, or local courts which authorizes or enables the Control Authority to apply and to enforce the requirements of Chapter 62-625, F.A.C.; and

WHEREAS, it is the desire of the Ocala City Council to adopt such an ordinance and remain in compliance with our regulatory agencies; and

WHEREAS, the Ocala City Council hereby finds and declares that the adoption of this ordinance is appropriate and in the best interest of the public and the water reclamation facilities.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That Section 70-39 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to add the following definition to the alphabetized list of definitions set forth therein:

“Hazardous waste pharmaceutical” is 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.

“Healthcare facility” means 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.

"Pharmaceutical" means 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.

"Reverse distributor" means 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.

Section 2. That Section 70-51 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to add the following subsection:

Sec. 70-51. – Prohibited Discharge Standards.

...

- (c) No industrial user may contribute the following substances to the wastewater treatment facility:

...

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

Section 3. That Section 70-59 of the Code of Ordinances, City of Ocala, Florida, is hereby created and shall read as follows:

Sec. 70-59. – Requirements for dental facilities that remove or place amalgam fillings.

- (a) Definitions. For the purposes of this section the following words and phrases shall be as defined herein.
 - (1) “*Amalgam separator*” is 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.
 - (2) “*Amalgam waste*” means and includes 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.
 - (3) “*ANSI/ADA Standard No. 108*” is the American National Standards Institute and American Dentistry association standard for amalgam separators.
 - (4) “*Existing Source*” is any facility subject to this Section whose first discharge to the sewer collection system occurred on or before July 14, 2017.
 - (5) “*ISO 11143*” is the International Organization for Standardization’s standard for amalgam separators.
 - (6) “*New Source*” is 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.
- (b) 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, the One-Time Compliance Report is due no later than October 1, 2022 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.

- (c) All owners and operators of dental vacuum suction systems, except as set forth in subsections (d) and (e) 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 ordinance 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.
- (d) Facilities with vacuum suction systems that meet all the following conditions may apply to the director for an exemption to the requirements of subsection (c) 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 City's Director of Water Resources. The Director or his or her designee will review the system and, if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (d) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the

facility shall comply with subsection (c) of this section before commencing further operation.

- (e) 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; or (6) Endodontistry and prosthodontistry.
- (f) 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 (City) signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance deadline identified in Section 70-59 (b):

“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 § 403.12(1) 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, as no more than 10% of dental procedures; and
 - (3) The dental practice notifies the (City) of any changes affecting the applicability of this certification.
- (g) Disposal of hauled wastewater from dental facilities to the sanitary sewer must be in accordance with (Section 70-75, 70-51, and 70-139), and may be subject to industrial pretreatment requirements.
- (h) 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 70-161, 70-131 to 144 and 70-221 to 228, respectively.

Section 4. Severability. Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall be effective on the date of the Mayor's approval set forth below, or upon taking effect without such approval.

ATTEST:

CITY OF OCALA

By: _____
Angel B. Jacobs
City Clerk

By: _____
Ire Bethea Sr.
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on _____, 2022.

By: _____
Reuben Kent Guinn
Mayor

Approved as to form and legality:

By: _____
Robert W. Batsel, Jr.
City Attorney

Ordinance No: 2022-22
Introduced: 3/1/2022
Adopted: 3/15/2022
Legal Ad No: 3/4/22 - 6972371