

ORDINANCE NO. 9389-20

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA; AMENDING CHAPTER 32, ARTICLE V, DIVISION 2, PRETREATMENT AND DISCHARGE RESTRICTIONS; AMENDING SECTION 32.211 TO ADD DEFINITIONS; AMENDING SECTION 32.212, TO SPECIFICALLY PROHIBIT HAZARDOUS WASTE PHARMACEUTICALS, TO ADD REQUIREMENTS FOR DENTAL FACILITIES THAT REMOVE OR REPLACE DENTAL AMALGAM FILLINGS, TO ADD REPORTING AND WASTE MANAGEMENT PRACTICES FOR DENTAL FACILITIES, TO REQUIRE INSTALLATION, CERTIFICATION AND MAINTENANCE OF DENTAL VACUUM SUCTION SYSTEMS, AND TO PROVIDE EXEMPTIONS FROM THESE REQUIREMENTS; RENUMBERING SUBSECTIONS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Clearwater adopted the uniform requirements for Industrial Pretreatment of wastewater collection and discharge restrictions, as set forth in this Division 2 in 1999.

WHEREAS, based upon requirements in the Dental Amalgam Rule, 40 CFR 441, and the pharmaceutical hazardous waste sewer ban, 40 CFR 266.505, the City of Clearwater finds it necessary to amend its ordinances in order to comply with state and federal law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA, THAT:

Section 1: Division 2, Section 32.211, Code of Ordinances, is amended as follows:

Sec. 32.211 General provisions.

(4) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated.

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.

Healthcare facility. Any person that is lawfully authorized to:

- (1) 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
- (2) 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. 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. 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: Division 2, Section 32.212, Code of Ordinances, is amended as follows:

Sec. 32.212 General sewer use requirements.

(1) *Prohibited discharge standards.*

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the WWF the following pollutants, substances, or wastewater:

18. Hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.

(4) Requirements for dental facilities that remove or place amalgam fillings.

(a) Definitions. For the purposes of this section (4) the following words and phrases shall be as defined herein.

1. *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.
2. *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.
3. *ANSI/ADA Standard No. 108.* The American National Standards Institute and American Dentistry association standard for amalgam separators.
4. *Existing Source.* Any facility subject to this section (4) whose first discharge to the sewer collection system occurred on or before July 14, 2017.

5. ISO 11143. The International Organization for Standardization's standard for amalgam separators.
6. New Source. Any facility subject to this section (4) 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 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 director 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 (4), 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 or designee 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 director 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 director or designee 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 the above conditions 1. through 4. may apply for this exemption by written letter to the director. The director or 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 (4) 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; (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 this subsection (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 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; and

3. The dental practice notifies the city of any changes affecting the applicability of this certification.

(g) Disposal of hauled waste from dental facilities to the sanitary sewer is prohibited.

~~(4)~~ (5) Local limits. Local limits shall be established, using standard procedures, calculations and methods acceptable to FDEP, to protect against pass through and interference. A "plan of study" must be submitted to the department prior to beginning sampling necessary to determine local limits. No industrial user shall discharge process wastewater, individual regulated wastestreams, unregulated wastestreams, or dilute wastestreams in excess of the concentrations set forth by the director, or his/her designee. Local limits shall be included as permit conditions and attached to each significant industrial user (SIU) permit issued.

(a) The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, WWF operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics. Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation of the modified limits shall be accomplished through the development and issuance of an addendum to each SIU permit.

(b) The established local limits apply at the point where the wastewater is discharged to the WWF. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The coordinator may impose mass limitations in addition to, or in place of, the concentration based limitations set forth by the director, or his/her designee.

(c) The pretreatment program may develop best management practices (BMPs) these may be implemented by ordinance or in individual wastewater discharge permits or general permits these BMP's shall be considered local limits and pretreatment standards 32.212(1) and shall be enforced as such.

~~(5)~~ (6) The city's right of revision. The city reserves the right to establish, by ordinance, or by the director, individual wastewater discharge permits, or general permits, more stringent standards or requirements for discharges to the WWF consistent with the purpose of this ordinance.

~~(6)~~ (7) Dilution. Dilution prohibited as substitute for treatment. Except where expressly authorized to do so by an applicable pretreatment standard or requirement. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable

pretreatment standard or requirement. The coordinator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Coding: Words in strikethrough type are deletions from existing text.
Words in underline type are additions.

Section 3: This Ordinance shall become effective immediately upon adoption.

PASSED ON FIRST READING _____

PASSED ON SECOND AND FINAL
READING AND ADOPTED _____

Frank Hibbard
Mayor

Approved as to form:

Attest:

Owen Kohler
Assistant City Attorney

Rosemarie Call
City Clerk