

ORDINANCE NO. 24-24

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH CHAPTER 53, "SANITARY SEWERS," SECTION 53.058, "RESERVED," TO ENACT A NEW SECTION 53.058, "DENTAL FACILITIES THAT REMOVE OR REPLACE AMALGAM FILLINGS," PROVIDING FOR LOCAL IMPLEMENTATION OF THE EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR DENTAL CATEGORY ADOPTED BY THE STATE OF FLORIDA; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Effluent Limitations Guidelines and Standards for the Dental Category, Title 40 Code of Federal Regulations (CFR) Part 441, became effective June 14, 2017; and

WHEREAS, the State of Florida adopted the Effluent Limitations Guidelines and Standards for the Dental Category in Rule 625.110(3), Florida Administrative Code; and

WHEREAS, due the State's adoption, all public utilities within an approved pretreatment program are now responsible for regulating dental dischargers within their service areas; and

WHEREAS, in addition to regulating dental discharges, service providers are also required to maintain certain records; and

WHEREAS, in order to comply with 40 CFR Part 441 and Florida Administrative Code Rule 625.110, the City of Delray Beach needs to adopt new requirements for dental facilities that remove or place amalgam fillings; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Delray Beach as set forth in Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, *Florida Statutes*, and other applicable controlling laws; and

WHEREAS, the City Commission deems approval of this Ordinance to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. Chapter 53, "Sanitary Sewers," Section 53.058, "Reserved," of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

Sec. 53.058. – RESERVED–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 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.
- (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, 2024, 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, 2025; 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 Utilities 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 by the Utilities Director, or designee, during normal business hours. Records shall be maintained for a minimum of three years.

(D) An owner or operator whose facility has a vacuum suction system that meets conditions (1) through (4) below may apply for an exemption by written letter to the Utilities Director, or designee. The Utilities 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 shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with this Section before commencing further operation.

- (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 City during normal business hours.
 - (4) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.
- (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 Utilities Director, or designee, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance deadline identified in Section 53.058(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 Florida Statutes § 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, less than 1 times per year and as no more that 2% of dental procedures; and

(3) The dental practice notifies the Utilities Director, or designee, of any changes affecting the applicability of this certification.

(G) Disposal of hauled wastewater from dental facilities to the sanitary sewer must be accomplished in accordance with this Section.

Section 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 6. That this Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the ____ day of _____, 2024.

ATTEST:

Katerri Johnson, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____