

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	May 5, 2020	Consent [] Public Hearing []	Regular [X]
----------------------	-------------	---	--------------------

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and to advertise for Public Hearing on June 16, 2020 an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, adding Section 27-81 "Requirements for Dental Facilities that Remove or Place Amalgam Fillings", and amending sections 27-65 "Definitions", and 27-69 "Prohibitions and Limitations of Discharge", of Chapter 27, Article IV of the Palm Beach County Code ("Sewers and Sewage Disposal"); providing for laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; and providing for an effective date.



Summary: The new Section 27-81, and the amendment to Section 27-65, provide for the requirements set forth by the United States Environmental Protection Agency (EPA) in the updated Clean Water Act, effective July 14, 2017 and codified in 40 CFR 441, and the Florida Department of Environmental Protection implementation of 40 CFR 441 as codified in Chapter 62-625(3) F.A.C., effective May 23, 2018. The change in the Clean Water Act requires dentists handling dental amalgam, or tooth fillings, to pretreat their wastewater to remove dental amalgam before it enters the Palm Beach County Publicly Owned Treatment Works (POTW) wastewater conveyance system. The EPA has determined that dental clinics are the main source of mercury in POTWs. Mercury is a component of dental amalgam. Mercury-containing amalgam wastes find their way into the environment when new fillings are placed or old mercury-containing fillings are drilled out, and waste amalgam materials that are flushed into chair-side drains enter the wastewater stream. Mercury entering POTWs frequently partitions into the sludge, which is the solid material that remains after wastewater is treated. Mercury from waste amalgam therefore can make its way into the environment from the POTW through the incineration, landfilling, or land application of sludge or through surface water discharge. Dental offices subject to the ordinance, must install a certified amalgam separator by July 14, 2020 and allow inspections by a Palm Beach County Water Utilities Department (PBCWUD) representative. The dental office must also complete a One-Time Compliance Report and forward it to the PBCWUD Pretreatment Coordinator by October 12, 2020. Dental offices that do not place or remove dental amalgam must provide a statement detailed in the ordinance to the PBCWUD Pretreatment Coordinator by July 14, 2020. The EPA and the American Dental Association (ADA) worked closely in this change to the Clean Water Act. PBCWUD provided a copy of the ordinance to the Florida Dental Association, the Atlantic Coast Dental Association, and the Central Palm Beach County Dental Association.

Section 27-69 currently provides a description of wastes that are not to be discharged into the POTW. However, the EPA modified Chapter 40 CFR 266 subpart P, which now prohibits the discharge of hazardous waste pharmaceuticals into sewer systems. Therefore, the amendment to Section 27-69 reflects the recent addition of healthcare facilities and reverse distributors as specifically identified by the EPA. Countywide (MJ)

Background and Policy Issues: PBCWUD will utilize these additions and amendments to Chapter 27 to satisfy the requirements of the updated Clean Water Act. PBCWUD personnel will monitor customer compliance using the existing pretreatment program and will assist dental offices in fulfilling these new requirements. Also, PBCWUD will utilize the amendments to Chapter 27 to include the new federal requirement prohibiting the discharge of hazardous waste pharmaceuticals into the PBCWUD owned wastewater conveyance system.

Attachments:

1. Proposed Ordinance Amendment

Recommended By:	 Department Director	4-1-2020 Date
Approved By:	 Assistant County Administrator	4/2/20 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.:	Fund	Dept	Unit	Object
----------------------------	-------------	-------------	-------------	---------------


Is Item Included in Current Budget? Yes _____ No _____

Does this item include the use of federal funds? Yes _____ No _____

Reporting Category **N/A**

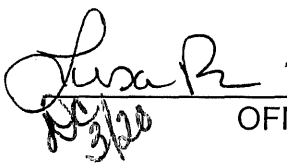
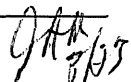
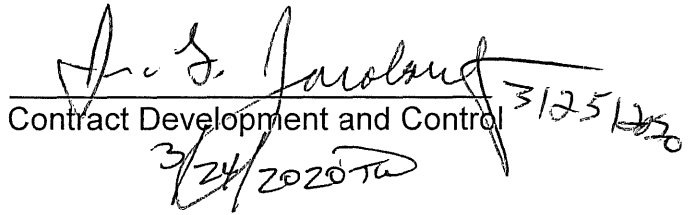
B. Recommended Sources of Funds/Summary of Fiscal Impact:

No fiscal impact.

C. Department Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

<u></u> OFMB 3/23/2020	<u></u> 3/15/20	<u></u> Contract Development and Control 3/25/2020
---	---	--

B. Legal Sufficiency:


Assistant County Attorney
4/15/2020

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADDING SECTION 27-81 “REQUIREMENTS FOR DENTAL FACILITIES THAT REMOVE OR PLACE AMALGAM FILLINGS”, AND AMENDING SECTIONS 27-65 “DEFINITIONS”, AND 27-69 “PROHIBITIONS AND LIMITATIONS OF DISCHARGE”, OF CHAPTER 27, ARTICLE IV OF THE PALM BEACH COUNTY CODE (“SEWERS AND SEWAGE DISPOSAL”); PROVIDING FOR LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 27, Article IV of the Palm Beach County Code (the “Sewers and Sewage Disposal Ordinance”), sets forth the uniform requirements for users of the Palm Beach County Water Utilities Department wastewater system; and

WHEREAS, the United States Environmental Protection Agency (EPA) recently enacted Code of Federal Regulation 40 CFR Part 441 in order to reduce discharges of mercury and other metals from dental offices into municipal sewer systems; and

WHEREAS, The Florida Department of Environmental Protection (FDEP) recently incorporated changes specific to discharges of amalgam waste from dental offices into Chapter 62-625, Florida Administrative Code; and

WHEREAS, the County wishes to incorporate provisions related to discharges of amalgam waste from dental offices into the Palm Beach County wastewater system into the Sewers and Sewage Disposal Ordinance; and

WHEREAS, the EPA recently enacted Code of Federal Regulation 40 CFR 266.505 prohibiting the discharge of hazardous waste pharmaceuticals from healthcare facilities and other users into municipal sewer systems; and

WHEREAS, the County wishes to incorporate a provision prohibiting discharges of hazardous waste pharmaceuticals from healthcare facilities and other users into the Palm Beach County wastewater system into the Sewers and Sewage Disposal Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. Chapter 27, Article IV, Section 27-65, is hereby amended to add the following definitions:

1 “Amalgam separator” is a device that employs filtration, settlement, centrifugation, or ion
2 exchange to remove amalgam and its metal constituents from a dental office vacuum system before
3 it discharges to the sewer.
4

5 “Amalgam waste” means and includes non-contact amalgam (amalgam scrap that has not been in
6 contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing
7 amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other
8 amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.
9

10 “ANSI/ADA Standard No. 108” is the American National Standards Institute and American
11 Dentistry association standard for amalgam separators.
12

13 “Existing Amalgam Source” any facility subject to the provisions of Section 27-81 herein whose
14 first discharge to the sewer collection system occurred before July 14, 2017.
15

16 “Hazardous waste pharmaceutical” is a pharmaceutical that is a solid waste, as defined in Title 40
17 of the Code of Federal Regulations (40 CFR) section 261.2, and exhibits one or more
18 characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.
19

20 “Healthcare facility” means any facility or person that is lawfully authorized to:

21
22 a) Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or
23 palliative care, and counseling, service, assessment or procedure with respect to the
24 physical or mental condition, or functional status, of a human or animal or that affects the
25 structure or function of the human or animal body; or
26

27 b) Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not
28 limited to, wholesale distributors, third-party logistics providers that serve as forward
29 distributors, military medical logistics facilities, hospitals, psychiatric hospitals,
30 ambulatory surgical centers, health clinics, physicians’ offices, optical and dental
31 providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-
32 term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary
33 clinics, and veterinary hospitals. Healthcare facility does not include pharmaceutical
34 manufacturers.
35

36 “ISO 11143” is the International Organization for Standardization’s standard for amalgam
37 separators.
38

39 “New Amalgam Source” any facility subject to this article whose first discharge to the sewer
40 system occurs on or after July 14, 2017.
41

42 “Pharmaceutical” means any drug or dietary supplement for use by humans or other animals; any
43 electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine
44 (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled
45 cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined
46 by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by Title 21 of the
47 Code of Federal Regulations part 203.3(y); over-the-counter drugs; homeopathic drugs;
48 compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty
49 containers; personal protective equipment contaminated with pharmaceuticals; and clean-up
50 material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or
51 sharps.
52

53 “Reverse distributor” means any person that receives and accumulates prescription
54 pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose
55 of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-
56 party logistics providers, and pharmaceutical manufacturers, that processes prescription
57 pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse
58 distributor.
59

1 **SECTION 2.** Chapter 27, Article IV, Section 27-69(1), is hereby amended to add the following
2 subsection:

3 u. Any hazardous waste pharmaceuticals from healthcare facilities and reverse
4 distributors.

5
6 v. Amalgam waste, unless exempted in accordance with Section 27-81.
7

8 **SECTION 3.** Chapter 27, Article IV, is hereby amended to add the following new section 27-81:

9 **Sec. 27-81 Requirements for dental facilities that remove or place amalgam fillings**

10
11 (1) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with
12 the following reporting and waste management practices:

13
14 (a) For existing amalgam sources, the One-Time Compliance Report is due no later than October 12,
15 2020 or no later than 90 days after transfer of ownership.

16 (b) For new amalgam sources, the One-Time Compliance Report is due within 90 days of the start of
17 discharge to the sewer collection system.

18 (c) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink
19 or other connection to the sanitary sewer.

20 (d) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam
21 waste are trained in the proper handling, management and disposal of mercury-containing material
22 and fixer-containing solutions and shall maintain training records that shall be available for
23 inspection by the superintendent or designee during normal business hours.

24 (e) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or
25 hauler of such materials.

26 (f) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line
27 system.

28 (g) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.
29

30 (2) All owners and operators of dental vacuum suction systems, except as set forth in subsections (3) and
31 (4) of this section, shall comply with the following:

32
33 (a) An ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator or equivalent device
34 shall be installed for each dental vacuum suction system on or before July 14, 2020; provided,
35 however, that all dental facilities that are newly constructed on and after the effective date of this
36 ordinance shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam
37 separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108
38 certified as capable of removing a minimum of 95 percent of amalgam. The amalgam separator
39 system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction
40 system operation. Neither the separator device nor the related plumbing shall include an automatic
41 flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of
42 ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units
43 from the same manufacturer and of the same technology are ISO-certified.
44

45 (b) Proof of certification and installation records shall be submitted to the Palm Beach County Water
46 Utilities Department (WUD) Pretreatment Coordinator within 30 days of installation.
47

48 (c) Amalgam separators shall be maintained in accordance with manufacturer recommendations.
49 Installation, certification, and maintenance records shall be available for immediate inspection
50 upon request therefor by the superintendent or designee during normal business hours. Records
51 shall be maintained for a minimum of three years.
52

53 (3) Facilities with vacuum suction systems that meet all the following conditions may apply to the WUD
54 Pretreatment Coordinator for an exemption to the requirements of subsection (2) of this section:

55
56 (a) The system is a dry vacuum pump system with an air-water separator.

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

- 1 (c) Evidence of regular pump outs by a licensed hauler (a minimum of once a year, or more often if
- 2 either directed by the manufacturer or necessary to keep solids from exiting through the drain) is
- 3 maintained and open to inspection by the superintendent during normal business hours.
- 4 (d) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

5
6 An owner or operator whose facility meets conditions (a) through (d) may apply for this exemption by
7 written letter to the WUD Pretreatment Coordinator. The WUD Pretreatment Coordinator or designee
8 will review the system and, if the exemption is approved, shall provide a written letter of exemption.

9
10 An exemption obtained pursuant to this subsection (3) shall expire upon installation of a new vacuum
11 system. Upon expiration of the exemption, the facility shall comply with subsection (2) of this section
12 before commencing further operation.

- 13
- 14 (4) Dental dischargers that exclusively practice one or more of the following specialties are not subject to
- 15 the requirements of this section: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery;
- 16 (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prosthodontistry.
- 17
- 18 (5) Dental practices that do not place dental amalgam, and do not remove amalgam except in limited
- 19 emergency or unplanned, unanticipated circumstances, are exempt from the requirements of this
- 20 section, provided the dental practice:

- 21
- 22 (a) Submits the following statement to the WUD Pretreatment Coordinator, signed by a
- 23 responsible corporate officer, general partner, proprietor, or a duly authorized representative by
- 24 the applicable compliance deadline identified in Section 27-81(1)(a) or (b):

25
26 *“This facility is a dental discharger subject to this Section 27-81, Palm Beach County*
27 *Code, and does not place or remove dental amalgam except in limited emergency or*
28 *unplanned, unanticipated circumstances. I am a responsible corporate officer, a general*
29 *partner or proprietor (if the facility is a partnership or sole proprietorship), or a duly*
30 *authorized representative in accordance with the requirements of § 403.12(l) of the above*
31 *named dental facility, and certify under penalty of law that this document and all*
32 *attachments were prepared under my direction or supervision in accordance with a system*
33 *designed to assure that qualified personnel properly gather and evaluate the information*
34 *submitted. Based on my inquiry of the person or persons who manage the system, or those*
35 *persons directly responsible for gathering the information, the information submitted is, to*
36 *the best of my knowledge and belief, true, accurate, and complete. I am aware that there*
37 *are significant penalties for submitting false information, including the possibility of fine*
38 *and imprisonment for knowing violations.”;*
39

- 40 (b) Removes dental amalgam for limited emergency or unplanned, unanticipated circumstances,
- 41 less than 9 times per year and as no more that 5% of dental procedures; and

- 42
- 43 (c) The dental practice notifies the WUD Pretreatment Coordinator of any changes affecting the
- 44 applicability of this certification.

- 45
- 46 (6) Unless otherwise exempted in accordance with this section, discharge of amalgam waste from dental
- 47 facilities to the sanitary sewer is prohibited in accordance with chapter 27-69(1)(v).
- 48
- 49 (7) Dental dischargers that fail to comply with this section will be considered significant industrial users,
- 50 and will be subject to the requirements herein, including the compliance monitoring, reporting
- 51 requirements, and enforcement remedies identified in chapter 27.

52 **Section 4. REPEAL OF LAWS IN CONFLICT:**

53 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed
54 to the extent of such conflict.

1 **Section 5. SEVERABILITY:**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held
3 by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not
4 affect the remainder of this Ordinance.

5 **Section 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

6 The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code.
7 The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word
8 “ordinance” may be changed to “section”, “article”, or other appropriate word.

9 **Section 7. EFFECTIVE DATE:**

10 The provisions of this Ordinance shall become effective on _____.

11 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on
12 this the ____ day of _____, 2020.

13
14 SHARON R. BOCK, CLERK
15 AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

16
17
18
19 By: _____
20 Deputy Clerk

By: _____
Dave Kerner, Mayor

21
22
23
24 APPROVED AS TO FORM AND
25 LEGAL SUFFICIENCY

26
27
28
29 By: _____
30 County Attorney

31
32 FILING DATE: Filed with the Department of State on the ____ day of _____, 2020.