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**CITY OF LABELLE
ORDINANCE 2020-11**

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AN ORDINANCE AMENDING CHAPTER 18 – UTILITIES, ARTICLE II, SEWERS, OF THE CITY OF LABELLE MUNICIPAL CODE RELATING TO THE PRETREATMENT OF INDUSTRIAL WASTEWATER; PROVIDING FOR ADOPTION OF PRETREATMENT PERMITTING STANDARDS, OPERATION, AND MAINTENANCE WITHIN; TITLE, PURPOSE AND SCOPE; LIMITATIONS AND STANDARDS; ENTRY, INSPECTION AND SAMPLING; ENFORCEMENT, REVIEW COMMITTEE, MEETINGS, CITATION, INJUNCTIVE RELIEF AND DAMAGE ASSESSMENTS PLAN; CONFLICT; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

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RECITALS

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WHEREAS, the Board of City Commissioners of The City of LaBelle, Florida (City) is the governing body in and for The City of LaBelle, Florida; and

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WHEREAS, the City wastewater treatment facility (WWTF) has intermittently received excessively strong influent wastewater from the City sanitary sewer collection system which exceeds the WWTF design values, creating conditions for the WWTF effluent to exceed the limits included in Operating Permit FL 014283 (“Permit”) issued by the Florida Department of Environmental Protection (FDEP); and

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WHEREAS, groundwater monitoring results from the City WWTF effluent disposal site Rapid Infiltration Basins (RIBs) have consistently exceeded the Permit limits for total dissolved solids; and

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WHEREAS, the City has incurred unplanned expenses for wastewater treatment and disposal relating to the intermittent receipt of excessively strong influent wastewater.

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WHEREAS, although the current Permit does not require the City to have an industrial wastewater pretreatment program, the City wishes to be proactive in adherence to State and Federal industrial pretreatment regulations.

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NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of LaBelle, Florida:

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Section 1. **Recitals.** The forgoing recitals are hereby ratified and confirmed as being true and correct and hereby made a part of this Ordinance and adopted as legislative findings.

45 **Section 2.** Amendment to the City Code of Ordinances. Chapter 18,
46 Article II, Sewers, of the City of LaBelle Code is hereby amended with the following
47 provisions:

48 **CODE OF ORDINANCE**

49 **CHAPTER 18 – UTILITIES**

50 **DIVISION 3. INDUSTRIAL WASTE PRE-TREATMENT.**

51 **Section 18-56. Title, Purpose, and Scope.**

- 52
- 53 a. This Ordinance will be known and cited as the City of LaBelle Industrial
54 Pretreatment Program (IPP).
- 55
- 56 b. The purpose of the Industrial Pretreatment Program is to prevent the introduction
57 of pollutants into the City of LaBelle sanitary collection system that would;
58 interfere with the operation of the treatment facilities; cause pass-through of
59 pollutants through the City Wastewater Treatment Facility (WWTF) which can
60 prevent the ability to reclaim or reuse wastewater or biosolids; be incompatible with
61 the existing treatment works process; or that can jeopardize the safety and well-
62 being of WWTF and collection systems personnel. In addition, the IPP ensures that
63 City of LaBelle Utilities Department adheres to the standards set by State and
64 Federal Environmental Protection Agency (EPA) pretreatment regulations.
- 65
- 66 c. The territorial scope of this Ordinance includes all areas of The City of LaBelle in
67 which the sanitary sewer collection system is owned and maintained by City
68 Utilities.
- 69

70 **Section 18-57. Definitions.**

71 In construing the provisions of this chapter, where the context will permit and no
72 definition is provided herein, the definitions provided in Chapter 403, Florida Statutes, as
73 may be amended from time to time, and in rules and regulations promulgated thereunder,
74 as may be amended from time to time, shall apply. The following words and phrases when
75 used in this chapter shall have the meanings ascribed to them in this section:

76 “Analytical Laboratory” shall mean a laboratory that complies with Florida
77 Administrative Code 64E-1, for the examination of environmental samples by the State of
78 Florida Department of Health (FDH), Bureau of Public Health Laboratories for the water
79 quality parameters and analytical methods included in this Ordinance.

80 “Control Authority” shall mean The City of LaBelle Utilities Superintendent or its
81 designee.

88 “Environmental Protection Agency (EPA)” shall mean the United States Federal
89 Government Environmental Protection Agency of the United States, its Administrator, or
90 other duly authorized representative of said agency.

91 “Grab Sample” shall mean a sample that is taken from a wastewater discharge on a
92 one-time basis with no regard to the volume of flow in the discharge.

93 “Industrial User” any nonresidential user subject to Categorical Pretreatment
94 Standards under 40 CFR (Code of Federal Regulations), 403.6 and 40 CFR, Chapter I,
95 subchapter N. Any Industry which is designated as such by the FDEP on the basis that the
96 industrial user has are reasonable potential for adversely affecting the operation of the
97 collection system or treatment plant or violating any pretreatment requirement.

98 “Notice of Violation (NOV)” shall mean a written notice informing an Owner that
99 a violation of this Ordinance has occurred.

100 “Notify” shall mean contact by telephone, in person, electronic mail or via certified
101 United States Mail, return receipt requested.

102 “Owner” shall mean the legal owner(s) of the structure in which the Industrial User
103 is located and/or the operator(s).

104 “Premises” shall mean a parcel of real estate or portion thereof including any
105 improvements thereon which is determined by the Control Authority to be a single user for
106 the purposes of receiving, using and paying for sanitary sewer services.

107 “Wastewater Treatment Facility (WWTF)” shall mean a treatment works, also
108 referred to as a wastewater treatment plant (WWTP) or publicly owned treatment works
109 (POTW), which is owned by the City. Any devices and systems used to pump, store, treat,
110 recycle and reclaim municipal sewage or industrial wastes of a liquid nature. WWTF shall
111 include piping and City owned and maintained lift stations and pump stations that convey
112 wastewater to the WWTF. Any sanitary sewers that convey waste waters to the WWTF
113 from persons outside the City who are users of the WWTF by contract or agreement with
114 the City.

115 “Replacement Costs” shall mean expenditures for obtaining and installing
116 equipment, accessories or appurtenances necessary to retain design capacity and
117 performance of the WWTF throughout the jurisdiction of the City.

118 “Utilities Superintendent” shall mean the person designated by the City to oversee
119 and administer the activities of the Utilities Department, supervise the operation of the
120 WWTF, maintain records of such operation, prepare operating budgets and make
121 recommendations to the City of LaBelle’s City Commissioners concerning activities within
122 his responsibility and authority.

123 “Wastewater” shall mean the liquid and water containing industrial or domestic
124 wastes from dwellings, commercial buildings, industrial facilities, institutions and any
125 other source, whether treated or untreated which is contributed to or permitted to enter the
126 WWTF.

127
128 **Section 18-58. Industrial Pretreatment Program Authority.**

- 129
130 a. Federal regulations were established in June of 1978 and revised in January of
131 1981, for the responsibility of governmental agencies, industry, and the public to
132 implement National Pretreatment Standards (NPS) to control the introduction of

133 pollutants into WWTFs. These regulations implemented the requirements of the
134 1972 Federal Water Pollution Control Act (FWPCA) as amended by the 1977 Clean
135 Water Act and the 1987 Water Quality Act.

136 b. Duties and Powers. The FDEP has been delegated the responsibility for ensuring
137 that public agencies enforce pretreatment standards and regulations. Accordingly,
138 The City of LaBelle Government has adopted this Ordinance which: identifies and
139 defines prohibited wastes; requires industries to submit permit applications and
140 obtain discharge permits; requires access to industries for sampling and inspections;
141 requires pretreatment of wastes to meet federal and state discharge limits; and
142 authorizes fines and penalties for noncompliance with discharge limits and other
143 permit conditions, or which may cause the City WWTF to violate its permit limits.
144

145 **Section 18-59. Limitations and Standards.**

146
147 a. **General Prohibitions.** Rule 62-625.400 of the Florida Administrative Code
148 (F.A.C.) states that an industrial user shall not introduce into a WWTF any pollutant
149 which causes pass through or interference. These general prohibitions and the
150 specific prohibitions, provided below, apply to each industrial user introducing
151 pollutants into a WWTF whether or not the industrial user is subject to other
152 pretreatment standards, or any national, State, or local pretreatment requirements:
153

154 (i) Pollutants which create a fire or explosion hazard in the WWTF;

155 (ii) Pollutants which will cause corrosive structural damage to the WWTF, but in
156 no case discharges with pH lower than 5.0, unless the WWTF is specifically
157 designed to accommodate such discharges;

158 (iii) Solid or viscous pollutants in amounts which will cause obstruction to the flow
159 in the WWTF resulting in interference;

160 (iv) Any pollutant, including oxygen demanding pollutants and solids, released in
161 a discharge at a flow rate or pollutant concentration which will cause interference
162 with the WWTF;

163 (v) Heat in amounts which will inhibit biological activity in the WWTF resulting
164 in interference, but in no case heat in such quantities that result in the discharge
165 from the treatment plant having a temperature that exceeds 40° C (104° F) unless
166 the FDEP, upon request of the Control Authority, approves alternate temperature
167 limits in accordance with rule 62-302.520, F.A.C.;

168 (vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin
169 in amounts that will cause interference or pass through;

170 (vii) Pollutants which result in the presence of toxic gases, vapors, or fumes within
171 the WWTF in a quantity that will cause acute worker health and safety problems;

172 or

173 (viii) Any trucked or hauled pollutants, except at discharge points designated by the
174 Control Authority.

175
176 b. **Local Limits.** Each public utility which adopts a pretreatment program in
177 accordance with rule 62-625.500, F.A.C., shall develop and enforce specific limits.

178 The Control Authority (except where the FDEP is acting as the Control Authority)
 179 may develop best management practices (BMPs). Such BMPs shall be considered
 180 local limits and pretreatment standards for the City.

181 It shall be unlawful for any industrial user to throw, drain, run or otherwise
 182 discharge into a sanitary sewer, or to cause, permit, allow or suffer, be thrown, run,
 183 drained, or otherwise discharged into such sanitary sewer any effluent that is in
 184 excess of the following local limits determined from the WWTF influent design
 185 conditions and FDEP permit limits listed in Table 1. Industrial users shall perform
 186 quarterly monitoring of all effluent lines discharging directly to the City sanitary
 187 sewer system utilizing grab sampling.

188
 189 **Table 1. City Industrial User Discharge Limits**

Parameter	Compliance Limit	Units
Total Dissolved Solids (TDS)	500	mg/L
Total Suspended Solids (TSS)	320	mg/L
Biochemical Oxygen Demand, five day (BOD ₅)	320	mg/L
Total Kjeldahl Nitrogen (TKN)	50	mg/L
Total Recoverable Cadmium	5	ug/L
Total Recoverable Chromium	100	ug/L
Total Recoverable Lead	15	ug/L

190
 191 The Control Authority reserves the right to establish more stringent Standards or
 192 Requirements on discharges to the WWTF consistent with the purpose of this ordinance.

193
 194 **Section 18-60. Permitting Process.**

195
 196 a. Wastewater Discharge Permits are issued for a specified period of time not to
 197 exceed three years. They define discharge prohibitions, limitations, self-monitoring
 198 requirements, and the User's legal obligations. Non-compliance with any discharge
 199 limits or permit conditions may result in enforcement.

200
 201 b. There are two types of numeric discharge limits which may be included in the
 202 permit: local limits which are imposed to protect the WWTF; and federal limits that
 203 apply to Federal Categorical industries. The City's current local limits are
 204 established in Section 18-59. When both local and federal limits apply for a
 205 particular pollutant, both limits are enforced by the Control Authority. Discharge
 206 limits can be expressed either as a concentration (C; mg/L) or a mass limit (W;
 207 lbs/day). Mass limits are calculated by multiplying the concentration times the flow
 208 (Q; million gallons per day (mgd)) times a conversion factor of 8.34 (8.34 is a
 209 conversion factor with units (lb x L)/(mg x gallon x 10⁶) as follows:
 210 W (lbs/d) = Q (mgd) x C (mg/L) x 8.34

211
 212 **Section 18-61. Permit Application.**

213

- 214 a. Industries which conduct operations subject to federal and state regulations and
215 have the potential to impact the City sanitary sewer collection system are required
216 to apply for a permit.
217 b. Permit applications can be obtained at the address below and should be completed
218 and returned within 15 business days. For help completing the application or to
219 obtain additional program information contact:

220
221 City of LaBelle - Public Works Department
222 481 West Hickpochee Avenue
223 LaBelle, FL 33935
224

225 **Section 18-62. Permit Issuance.**
226

- 227 a. The Industrial Pretreatment Program Control Authority report, together with the
228 completed permit application, forms the basis for assigning a permit type and for
229 establishing permit discharge limits and conditions. Industries are categorized,
230 according to the nature of their discharge, into one of three defined permit
231 categories:
232
233 i. TYPE I – Any user subject to any categorical standards must obtain a Type
234 I discharge permit.
235 ii. TYPE II – Any user that is not subject to any categorical standards of Type
236 I, but meets one of the following conditions must obtain a Type II discharge
237 permit:
238 (a) Any user that discharges an average of 25,000 gallons per day (GPD) or
239 more of process wastewater into the City sewer system (excluding sanitary
240 or noncontact cooling and boiler blowdown wastewater).
241 (b) Any user that contributes a process waste stream which makes up more than
242 5% of the average dry weather hydraulic or organic capacity of any of the
243 City WWTF ($100 \frac{\text{lbs } BOD_5}{d}$).
244 (c) Is determined by the City to possess a reasonable potential for adversely
245 affecting the WWTF operations or for violating any local, state, or federal
246 pretreatment standard or requirement.
247 iii. TYPE III – Any user that may be subject to categorical standards but does
248 not discharge any regulated wastewater, or any user that is not subject to
249 Type I or Type II conditions above but in the best professional judgment of
250 the Control Authority has a reasonable potential to violate any local, state,
251 or federal pretreatment standards or requirement, must obtain a Type III
252 discharge permit.

253
254 **Section 18-63 Permit Revocation.**
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- 256 a. The Control Authority may revoke an individual wastewater discharge permit
257 for good cause, including, but not limited to, the following reasons:

- 258
259 failure to notify the Authority of significant changes to the wastewater prior to the
260 changed discharge;
261 b. failure to provide prior notification to the Authority of changed conditions;
262 c. misrepresentation or failure to fully disclose all relevant facts in the permit
263 application;
264 d. falsifying self-monitoring reports and certification statements;
265 e. tampering with monitoring equipment;
266 f. refusing to allow the Authority timely access to the facility premises and records;
267 g. failure to meet effluent limits;
268 h. failure to pay fines;
269 i. failure to pay sanitary sewer charges;
270 j. failure to meet compliance schedules;
271 k. failure to complete an industrial waste survey or a permit application;
272 l. failure to provide advance notice of the transfer of business ownership of a
273 permitted facility; or
274 m. violation of any pretreatment standard, requirement, these provisions, or any
275 terms of the wastewater discharge permit.
276

277 An individual wastewater discharge permit shall be voidable upon cessation of
278 operations or transfer of business ownership, unless a permit transfer has been approved
279 by the Authority. All existing permits issued to a user are void upon the issuance of a new
280 permit to that user. Failure to acquire a permit will result in the non-compliance penalties
281 outlined in section 7-2
282

283 **Section 18-64. Inspection.**
284

- 285 a. **Facility Inspection.** After the completed permit application is received, the City
286 will schedule a facility inspection which consists of: an interview with industry
287 personnel; a tour of the facility; and a review of written industry records. During
288 the interview, the industry's application, waste generating processes, wastewater
289 composition, and volume of wastewater discharge are reviewed. The facility tour
290 will include an inspection of the entire operation, focusing primarily on operations
291 generating wastewater, pretreatment facilities, and chemical/hazardous waste
292 storage areas. During the tour, City inspectors will identify or confirm for the
293 sampling location(s) that will be used to monitor compliance with the limits of this
294 ordinance. It is the industry's responsibility to provide an accessible and
295 representative sampling location. Following the inspection, Industrial Pretreatment
296 Program Control Authority will review all records including, but not limited to,
297 hazardous waste manifests, Safety Data Sheets, and pretreatment system
298 operations/maintenance logs, Industrial Pretreatment Performance.
299
300 b. **Monitoring.** The industry user must sample its own discharge and have it analyzed
301 by an analytical laboratory certified by the FDH Environmental Laboratory
302 Certification Program (ELCP). The City of LaBelle Utilities Department may also

303 periodically and independently sample an industry's discharge to determine
 304 compliance with this ordinance. City sampling may be done with or without prior
 305 notice to the industry. Samples collected by the City are analyzed by a Laboratory
 306 certified by the FDH ELCP.
 307

308 **Section 18-65. Enforcement.**

309
 310 a. Enforcement Response Plan. The Control Authority conducting the inspection who
 311 determines that a violation exists shall immediately notify the Owner that a
 312 violation exists and must be addressed promptly. The Control Authority may issue
 313 the Industrial User a Notice of Violation (NOV) stating the deficiencies and nature
 314 of the violation(s).

315
 316 If the Industrial User responds with an explanation for the violation acceptable to
 317 the City, and a plan for rectifying the situation, or corrects a deficiency within the
 318 prescribed time, enforcement ceases at the discretion of the Control Authority.
 319

320 b. Non-Compliance Fines. Below is the Administrative Fine Structure for
 321 Noncompliance with The City of LaBelle Pretreatment Regulations:
 322

<u>Nature of Violation</u>	<u>Fine Amount Assessed Per Violation Per Day</u>
<u>Late Submittal of Required Report (< 30 Days Past Due)</u>	<u>\$100.00</u>
<u>Discharge Violation</u>	<u>\$500.00</u>
<u>Violations Which Place the Industrial User:</u> <u>66% or more of all discharge measurements in a six-month period exceed the daily maximum limit or the average limit for the same pollutant parameter.</u> <u>33% or more of all discharge measurements in a six-month period exceed the daily maximum limit or the average limit for the same pollutant parameter.</u> <u>Discharge(s) which cause pass through, or interference at the WWTF or which endanger the health or the WWTF personnel, the general public, or the environment.</u> <u>Violation(s) of compliance date milestones.</u> <u>Failure to submit required reports and/or required reports submitted thirty (30) days or more past due date.</u>	<u>\$1,000.00</u>

<u>Nature of Violation</u>	<u>Fine Amount Assessed Per Violation Per Day</u>
<u>Failure to accurately report noncompliance.</u>	
<u>Any other violation(s) which the Control Authority deems detrimental to implementation of the local pretreatment program.</u>	
<u>Falsification of Reports</u>	<u>\$2,000.00 plus Termination of Service</u>
<u>Entry Denial and/or Unprecedented Delay of Entry</u>	<u>\$2,000.00 plus Termination of Service</u>

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Note: Administrative Fines are subject to modification at the discretion of the Control Authority. Administrative Fines more than 30 days past due are subject to an additional penalty of \$5.00 per day of violation (plus interest); where each day of continued violation is deemed a separate violation.

Section 7-3. Cost Recuperation for the City of LaBelle

The charge for the cost recuperation shall include any and all replacement costs incurred by the City to remove the captured material from Non-compliant Industrial Users. Costs shall include, but not be limited to: labor, material and equipment rental or use fees, captured material landfill transportation and disposal fees, and administrative fees. The Control Authority will provide the Industrial User with supporting materials documenting the labor charges and associated fees incurred by the Control Authority for the above referenced work.

Section 3. Codification. This ordinance shall be incorporated into the City of LaBelle Code. The sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification. Omissions, grammatical, and typographical errors, as well as clarifications of ambiguous wording that do not affect the intent of this Ordinance, may be authorized by the Mayor without need for a public hearing.

Section 4. Severability. In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. The provisions of this article shall supersede any provisions of existing ordinances in conflict herewith to the extent of said conflict.

Section 6. Effective Date. This ordinance shall become effective four (4) months after the date of enactment.

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PASSED AND DULY ADOPTED this 10th day of September 2020.

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ATTEST:

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By: Thomas A. Smith
Thomas A. Smith, Clerk-Commissioner

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APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: Derek Rooney
Derek Rooney, City Attorney

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382

Vote:

AYE

NAY

383

Mayor Lyons

✓

384

Commissioner Smith

✓

385

Commissioner Wilkins

✓

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Commissioner Akin

✓

387

Commissioner Kelley

✓

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