

ORDINANCE REGULATING COAL TAR SEALANT PRODUCTS

A CITY ORDINANCE REGULATING THE USE OF COAL TAR BASED SEALER PRODUCTS

ORDINANCE NO. _____

AN ORDINANCE TO ENFORCE THE STATUTORY PROHIBITION ON THE USE AND SALE OF COAL TAR AND OTHER HIGH PAH CONTENT SEALANT PRODUCTS WITHIN THE CITY OF DEXTER.

THE CITY COUNCIL OF THE CITY OF DEXTER DOES ORDAIN:

SECTION 1. PURPOSE.

The City of Dexter understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community.

The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between the use of coal tar-based sealers and certain health and environmental concerns, including increased cancer risk to humans and impaired water quality in streams.

The purpose of this ordinance is to prohibit the use and sale of sealant products containing >0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar-based sealer in the City of Dexter, in order to protect, restore, and preserve the quality of its waters and protect the health of its residents.

SECTION 2. DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ASPHALT BASED SEALER. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces.

COAL TAR. A byproduct of the process used to manufacture coke from coal.

COAL TAR SEALANT PRODUCT. A surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances containing more than 0.1% PAHs, by weight.

CITY. The City of Dexter.

HIGH PAH CONTENT SEALANT PRODUCT. A surface-applied product containing steam cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the chemical abstracts service number 64742-90-1, 69013-21-4 or related substances containing more than 0.1% PAHs, by weight.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and known to be harmful to humans, fish, and other aquatic life.

SECTION 3. PROHIBITIONS.

In accordance with

- A. No person shall apply a coal tar or other high PAH content sealant product on asphalt paved surfaces within the City of Dexter.
- B. No person shall sell a coal tar or other high PAH content sealant product that is formulated or marketed for application on asphalt-paved surfaces within the City of Dexter.
- C. No person shall allow a coal tar or other high PAH content sealant product to be applied upon property that is under that person's ownership or control.
- D. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the City.
- E. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the City.

SECTION 4. ASPHALT BASED SEALCOAT PRODUCTS.

The provisions of this ordinance shall only apply to coal tar or other high PAH content sealant products in the City and shall not affect the use of asphalt based sealer products within the City.

SECTION 5. REGISTRATION AND REPORTING REQUIREMENTS AND PROCEDURES FOR COMMERCIAL APPLICATORS

(1) All commercial applicators shall register with the city prior to applying pavement sealant in the city in any calendar year.

(2) Registration under this chapter shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.

(3) Commercial applicators shall submit a complete registration application to the City Offices, along with the registration fee according to the schedule established by resolution of City Council. The fee shall be calculated to include the cost of registration application review and periodic field inspection.

(4) The following information shall be included in a complete application for registration:

(a) The legal name of the commercial applicator, any other names used, the address, telephone number and contact person for the applicant.

(b) The product name, type of use, and PAH content including CAS numbers.

(c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of the Ordinance of the city throughout the registration period.

(d) All other information requested on the application.

(5) The application shall be approved if it is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.

(6) The application for registration shall be approved or denied within 21 days of submission of a completed application.

(7) A registered applicator shall notify the City in writing of any change in the information in the application for registration within 7 days of any such change.

SECTION 5. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

SECTION 6. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 7. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication.

Passed by the Council this _____ day of _____, 20____.

Mayor

Attested:

Clerk