

## ARTICLE VI. - COAL TAR BASED SEALER PRODUCTS

### Sec. 18-121. - 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 article is to prohibit the use and sale of asphalt sealant products containing greater than 0.1 percent 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.

(Ord. No. 2016-03, § 1, 7-25-2016)

### Sec. 18-122. - 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 article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Asphalt based sealer* means a petroleum-based sealer material that is ~~commonly~~ used on asphalt driveways, parking lots, and other surfaces.

*Coal tar* means a byproduct of the process used to manufacture coke from coal.

*Coal tar sealant product* means a surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, refined tar or any variation assigned the ~~C~~chemical ~~A~~abstracts ~~S~~service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances containing ~~more~~greater than 0.1 percent PAHs, by weight.

*City* means the City of Dexter.

*High PAH content sealant product* means 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~~CAS numbers ~~64742-90-1, 69013-21-4~~ or related substances containing ~~more~~greater than 0.1 percent PAHs, by weight.

*Person* means an individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

*PAHs* means polycyclic aromatic hydrocarbons, ~~including but not limited to a~~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.~~

*Pavement sealant* means a product used to seal cracks or other irregularities in, or enhance the appearance of, a paved surface, including but not limited to driveways, parking lots, or sidewalks.

*Pavement sealant applicator* means a person which applies any kind of Pavement sealant in the City.

(Ord. No. 2016-03, § 1, 7-25-2016)

Sec. 18-123. - Prohibitions.

In accordance with this article:

- (1) No ~~P~~person shall apply or use a coal tar, ~~or other h~~High-PAH content sealant product, or Coal tar sealant product on asphalt paved surfaces within the ~~e~~City.
- (2) No ~~P~~person shall sell a coal tar, ~~or other h~~High-PAH content sealant product, or Coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces within the ~~e~~City.
- (3) No ~~p~~Person shall allow a coal tar, ~~or other h~~High-PAH content sealant product, or Coal tar sealant product to be applied upon property that is under that ~~P~~person's ownership or control.
- (4) No ~~P~~person shall contract with any commercial Pavement sealant product applicator, residential or commercial developer, or any other ~~P~~person for the application of any coal tar, ~~or other h~~High-PAH content sealant product, or Coal tar sealant product to any driveway, parking lot, or other surface within the ~~e~~City.
- (5) No commercial Pavement sealant product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other ~~P~~person to apply any coal tar, ~~or other h~~High-PAH content sealant product, or Coal tar sealant product to any driveway, parking lot, or other surface within the ~~C~~city.

(Ord. No. 2016-03, § 1, 7-25-2016)

~~Sec. 18-124. Asphalt-based sealcoat products.~~

~~The provisions of this article 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.~~

~~(Ord. No. 2016-03, § 1, 7-25-2016)~~

Sec. 18-125. - Registration and reporting requirements and procedures for commercial pavement sealant applicators.

- (a) All ~~commercial Pavement sealant~~ applicators shall register with the ~~C~~city prior to applying ~~P~~pavement sealant in the ~~e~~City in any calendar year.
- (b) Registration under this ~~Article~~chapter shall be valid until expiration. Approved Rregistrations shall ~~begin on January 1 and shall~~ expire on December 31 of each calendar year.
- (c) Commercial Pavement sealant applicators shall submit a complete registration application to the ~~C~~city offices, along with the registration fee according to the schedule established by resolution of ~~e~~City ~~e~~Council. The fee shall be calculated to include the cost of registration application review and periodic field inspection.
- (d) A Person performing non-commercial Pavement sealant activities on property in the City that is under that Person's ownership or control shall submit a complete registration application to the City along with the registration fee according to the schedule established by resolution of City Council
- ~~(ed)~~ The following information shall be included in a complete application for registration:
  - (1) The legal name of the Pavement sealant commercial applicator, any other names used, the address, telephone number and contact person for the applicant.

- (2) The product name, type of use, and PAH content including CAS numbers.
- (3) A ~~signed statement notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator~~ indicating that the Pavement sealant applicator will comply with ~~City the requirements of the ordinance of the city~~ throughout the registration period.
- (4) All other information requested on the application.
- (fe) The application shall be approved if it is complete, the Pavement sealant applicator has complied with the previous year's reporting requirement, and the use of ~~p~~Pavement sealant complies with this ~~chapter~~Article.
- (gf) The application for registration shall be approved or denied within 21 days of submission of a completed application.
- (h) A registered Pavement sealant applicator shall notify the ~~e~~City in writing of any change in the information in the application for registration within seven days of any such change.
- (i) In the event that a coal tar, High-PAH content sealant product, or Coal tar sealant product is applied to a property within the City, the City shall forward to the property owner a notice of violation. The property owner shall have 14 days from the postmarked date of the notice of violation to remediate the coal tar, High-PAH content sealant product, or Coal tar sealant product. Remediation shall be performed through complete removal of the product from the property to which it was applied, and the material shall be disposed-of in an environmentally safe and appropriate manner at a location outside of the City. Failure of the property owner to remediate within the 14-day period shall result in remediation performed by the City or its contractor, with the cost of such remediation to be assessed to the property owner, and the penalty as provided in Section 18-126.

(Ord. No. 2016-03, § 1, 7-25-2016)

Sec. 18-126. ~~—~~ Penalty.

- (a) ~~All~~ Any ~~p~~Person convicted of violating any provision of this article is guilty of a misdemeanor and shall be punished by a fine not to exceed \$10,000.00 or imprisonment for not more than 90 days, or both, plus all costs of prosecution, including but not limited to staff and time and attorney costs, in either case, and costs of remediation.

(Ord. No. 2016-03, § 1, 7-25-2016)