

The City of the Village of Clarkston

Ordinance No. _____

Coal Tar Sealant Ordinance

An ordinance to enforce the statutory prohibition on the use and sale of high coal-tar and other PAH content sealant products within the City of the Village of Clarkston.

THE CITY OF THE VILLAGE OF CLARKSTON HEREBY ORDAINS:

Section A. Title

This Ordinance is known and cited as the City of the Village of Clarkston Coal-Tar Sealant Ordinance

Section B. Purpose

The purpose of this Ordinance is to promote the public health, safety, comfort, and general welfare of the community through prohibiting the use and sale of sealant products or substance containing >0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal-tar-based sealer in the City of the Village of Clarkston. This ordinance also promotes the protection of the natural assets of the City, such as the Mill Pond, Parke Lake, Middle Lake, the Clinton River, and other waterways of the Clinton River watershed, which enhance the environmental, recreational, cultural and economic resources of the City.

Section C. Definitions

- 1) ASPHALT-BASED SEALER. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces.
- 2) COAL-TAR. A byproduct of the process used to manufacture coke from coal.
- 3) COAL-TAR SEALANT PRODUCTS. A surface-applied sealing product containing coal-tar, coal-tar pitch, coal-tar pitch volatiles, RT-12, Refined Tar, or any variation thereof, including those

substances 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.

- 4) CITY. The City of the Village of Clarkston
- 5) 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 including those substances assigned the Chemical Abstracts Service numbers 64742-90-1, 69013-21-4, or related substances containing more than 0.1% PAHs by weight.
- 6) PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal oil, gas, or other organic substances that is present in coal-tar and known to be harmful to humans, fish, and other aquatic life.

Section D. Prohibitions

- 1) No person or entity shall apply a coal-tar or other high PAH content sealant product or substance on any surfaces within the City of the Village of Clarkston
- 2) No person or entity shall sell a coal-tar or other high PAH content sealant product that is formulated or marketed for application on surfaces within the City of the Village of Clarkston
- 3) No person or entity 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.
- 4) No person or entity shall contract with any commercial sealer product applicator, residential or commercial developer, or any other persons for the application of any coal-tar or other high PAH content sealant product to any driveway, parking lot, or surface within the City of the Village of Clarkston.
- 5) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization or entity shall direct any employee, independent contractor, volunteer,

entity or other person to apply any coal-tar or other high PAH content sealant product to any driveway, parking lot, or any other surface within the City.

Section E. 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 otherwise affect the use of asphalt-based sealer products within the City as long as those products contain less than 0.1% PAHs by weight."

Section F. Severability

The sections of this ordinance are severable, and if any section, clause, or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid or unenforceable, the same will not affect the validity of this Ordinance, or any part thereof, other than the part declared to be invalid.

OPTION A

Section G.. 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 Code Enforcement Officer on forms furnished by the City Clerk, 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 Coal Tar Sealant Ordinance of the city throughout the registration period
- d) All other information requested on the application.
- e) The Code Enforcement Officer shall approve a registration if the application is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.
- f) The application for registration shall be approved or denied within 21 days by the Code Enforcement Officer.
- g) The Code Enforcement Officer shall maintain a current list of all registered commercial applicators.
- h) A registered applicator shall notify the Code Enforcement Officer in writing of any change in the information in the application for registration within 7 days of any such change.

Section H. Enforcement and Penalties

The City Code Officer is responsible for enforcing any and all sections of this ordinance. After any residential or commercial sealant work is completed, the officer shall randomly check for the type of sealant used.

Any person or entity that knowingly violates any of the provisions of this Ordinance will be responsible for a civil infraction punishable by the following:

- For residential application: \$500 for the first offense, \$1,000 for the second offense and \$2,500 for the third offense, and for all other offenses.
- For commercial application: \$1,000 for the first offense, \$2,500 for the second offense and \$5,000 for the third offense, and for all other offenses.

OPTION B

Section G. Enforcement

The City Code Officer is responsible for enforcing any and all sections of this ordinance. After any residential or commercial sealant work is completed, the officer shall randomly check for the type of sealant used.

Section H. Penalties

Any person or entity that knowingly violates any of the provisions of this Ordinance will be responsible for a civil infraction punishable by the following:

- For residential application: \$500 for the first offense, \$1,000 for the second offense and \$2,500 for the third offense, and for all other offenses.
- For commercial application: \$1,000 for the first offense, \$2,500 for the second offense and \$5,000 for the third offense, and for all other offenses.

Section I. Effective Date

This Ordinance will take effect immediately upon publication.

At a regular meeting of the City of the Village of Clarkston City Council held on _____, adoption of the foregoing ordinance was moved by Council Member _____ and supported by Council Member _____.

The Mayor declared the ordinance adopted.

Sandy Miller
City Clerk

Steven C. Percival
Mayor

Pavement Sealant

On _____, 2018, the Clarkston City Council approved a new ordinance - Chapter _____ Coal Tar Pavement Sealant Ordinance of the City of the Village of Clarkston Code requires registration of commercial applicators of coal tar sealant products or related products. The provisions of this Chapter 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 as long as those products contain less than 0.1% PAHs, by weight. Key components of the requirements are listed below.

The Clarkston City Council finds that 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 pavement sealant products containing >0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar-based sealer in the City of Clarkston in order to protect, restore, and preserve the quality of its waters and protect the health of its residents. It is the further purpose and intent of this chapter to regulate the use and application of coal tar sealant products, to require the registration of commercial applicators of coal tar sealant products within the city, and to require the distribution of informational literature to consumers about the use and effect of coal tar sealant products.

Key components of the requirements are the following:

- All commercial applicators shall register with the city prior to applying pavement sealant in the city in any calendar year. 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.
- No person shall apply a coal tar or other high PAH content pavement sealant product on surfaces within the City of the Village of Clarkston.
- No person shall sell a coal tar or other high PAH content sealant product that is formulated or marketed for application on surfaces within the City of Clarkston.
- 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.
- No person shall contract with any commercial 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.
- No commercial 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.

• Any person or entity that knowingly violates any of the provisions of this Ordinance will be responsible for a civil infraction punishable by the following:

- For residential application: \$500 for the first offense, \$1,000 for the second offense and \$2,500 for the third offense, and for all other offenses.
- For commercial application: \$1,000 for the first offense, \$2,500 for the second offense and \$5,000 for the third offense, and for all other offenses.

Pavement Sealants Registration Form

January 2017 Commercial Applicator of Pavement Sealants Registration Form - \$22.00 annually (expires Dec. 31)
 Commercial applicators shall submit a complete registration application to the City Clerk on forms furnished by the City Clerk, along with the registration fee according to the schedule established by resolution of City Council (currently \$22.00). The fee shall be calculated to include the cost of registration application review and periodic field inspection. A violation of any provision of this chapter shall be a civil infraction punishable by a civil fine according to the ordinance.

Legal name of the commercial applicator	
Any other names used	
Address	
Telephone number	
Email	
Contact person for the applicant	
Product name (s)	
Type of use	
PAH content of pavement sealant products used. Include CAS numbers and attach MSDS sheets.	

The undersigned commercial or applicator will comply with the requirements of Pavement Sealant Ordinance of the City of the Village of Clarkston throughout the registration period.

 Signature of owner or duly authorized representative of a commercial applicator Date

 Notary Date

 Notary Signature Date

 Signature of City of Clarkston Code Enforcement Officer Date