

ORDINANCE NO. 2086

An Ordinance to Amend Chapter 313 of the Village Code, “Hazardous Materials,” to regulate the application and sale of coal tar sealant products

At a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin held on this 2nd day of October, 2017, a quorum being present and a majority of the Board voting therefore, said Board finds as follows:

WHEREAS, the Village of Shorewood finds that polycyclic aromatic hydrocarbons (PAHs), which are contained in coal tar sealants and other high PAH sealants, volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and abraded by vehicle and foot traffic; can be carried off of sealed pavement as small particles by that same traffic and transported into homes and onto nearby soils; and can be carried by storm water and other run off into the water resources of Shorewood; and

WHEREAS, PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and a lower number of organisms; and

WHEREAS, PAH compounds have been proven to be carcinogenic, mutagenic, and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal tar sealcoat treated pavements and playgrounds have a 38-fold higher risk of cancer; and the American Medical Association therefore advocates for legislation to ban the use of pavement sealcoats that contain PAHs or require use of sealcoat products that contain minimal PAH; and

WHEREAS, environmental impacts and human health risks can be minimized and pavements can be maintained by utilizing alternative products or methods, absent PAHs; and

WHEREAS, the Village of Shorewood finds that regulating the amount of hazardous materials, including Polycyclic Aromatic Hydrocarbons (PAHs) contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the Village of Shorewood will improve and protect public health and the water quality of Shorewood and neighboring water resources;

NOW THEREFORE, at a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin, held on the 2nd day of October, 2017, by a favorable vote of the members being present and therefore, said Board does ordain as follows:

SECTION 1

Existing Sections 1 through 9 of Chapter 313, Hazardous Materials, of the General Ordinances of the Village of Shorewood, will now constitute “Article I” of Chapter 313, and will be titled as follows:

Article I: Discharge of Hazardous Materials

SECTION 2

“Article II” of Chapter 313, Hazardous Materials, of the General Ordinances of the Village of Shorewood, is hereby created as follows:

Article II: Regulation of the Application and Sale of Coal Tar Sealant Products

§313-10: Definitions.

As used in this Article, the following terms shall have the meaning indicated:

COAL TAR

A byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).

COAL TAR SEALANT PRODUCT

A pavement sealant product that contains 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.

HIGH PAH SEALANT PRODUCT

Any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, coal tar sealant products and sealant products 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.

PAVEMENT SEALANT PRODUCT, also known as SEALCOAT

Any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based.

POLYCYCLIC AROMATIC HYDROCARBONS (PAHs)

A group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.

§313-11: Enforcement.

Violations of this ordinance will be enforced by the Planning and Development Department.

§313-12: Regulation Of The Application And Sale Of Coal Tar Or Other High PAH Sealant Products.

A. Except as provided in Section §313-13 (Exemptions), no person shall apply any coal tar sealant product or high PAH sealant product within the Village of Shorewood.

B. No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the Village of Shorewood.

C. Any person who sells pavement sealant products within the Village of Shorewood shall prominently display, in the area where such pavement sealant products are sold, a notice that contains the following language: “The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots and all other paved surfaces in the Village of Shorewood is prohibited by Article II of Chapter 313 of the Village of Shorewood Municipal Code. Polycyclic Aromatic Hydrocarbons (PAHs), are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high-PAH sealant products are a major source of PAHs that can travel into homes, buildings, and soils, or be carried by storm water and other run off into the water resources of Shorewood.”

D. No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property within the Village of Shorewood that is under that person’s ownership or control.

E. No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the Village of Shorewood.

F. 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 sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the Village of Shorewood.

§313-13: Exemptions.

The Director of the Village of Shorewood Planning and Development Department may exempt a person from a requirement of Article II of this chapter if the Director determines that:

A. the person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that said research

will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health.

B. the person does not intend to apply the sealant within municipal boundaries.

§ 313-14: Violations and penalties.

The penalties for violation of any provision of Article II of this chapter shall be the same as the penalties for discharge of hazardous materials under Article I of this chapter, as set forth in § 115-1 of the Village Code and enumerated in the municipal deposit schedule.

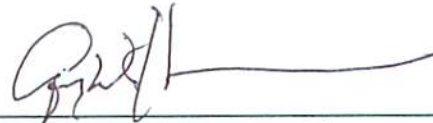
SECTION 3

That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby to such extent repealed.

SECTION 4

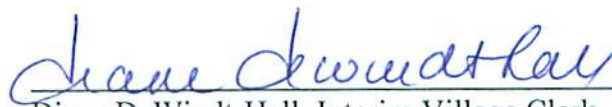
That this Ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin, this 2nd day of October, 2017.



Guy Johnson, Village President

Countersigned:



Diane DeWindt-Hall, Interim Village Clerk