

**AN ORDINANCE TO ENFORCE THE STATUTORY PROHIBITION ON
THE USE AND SALE OF COAL TAR SEALANT PRODUCTS WITHIN THE
CITY OF OAK PARK HEIGHTS, MINNESOTA**

Be it ordained and enacted by the City Council of the City of Oak Park Heights, State of Minnesota, that these amendments following, by this act, are newly enacted section(s) which, upon their enactment, become lawful upon publication of the Ordinance.

311.010 Purpose.

The City of Oak Park Heights Minnesota 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 stormwater runoff and certain health and environmental concerns. The 2013 Minnesota Legislature enacted a statewide prohibition on the use and sale of coal tar sealant products. This new statewide prohibition has been codified under *Minnesota Statutes* section 116.202 and is effective on January 1, 2014. The purpose of this ordinance is to prohibit violations of *Minnesota Statutes* section 116.202 in the City of Oak Park Heights, Minnesota, in order to protect, restore, and preserve the quality of its waters.

311.020 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:

- A. ASPHALT BASED SEALER. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces and does contain PAHs.
- B. COAL TAR. A byproduct of the process used to refine coal.
- C. COAL TAR SEALANT PRODUCT. A surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.
- D. CITY. The City of Oak Park Heights, Minnesota
- E. MPCA. The Minnesota Pollution Control Agency.
- F. 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 believed harmful to humans, fish, and other aquatic life.

312.030

Prohibitions.

In accordance with *Minnesota Statutes* section 116.202:

- A. No person shall apply a coal tar sealant product on asphalt paved surfaces within the City of Oak Park Heights.
- B. No person shall sell a coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces within the City of Oak Park Heights.
- C. No person shall allow a coal tar 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 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 sealant product to any driveway, parking lot, or other surface within the City.

312.040

Exemption.

Upon the express written approval from the MPCA and in accordance with *Minnesota Statutes* section 116.202, a person who conducts research on the environmental effects of coal tar sealant product or where the use of coal tar sealant product is necessary in the development of an alternative technology shall be exempt from the prohibitions provided in Section 3. Any person that is granted approval by the MPCA must provide a copy of the written approval from the MPCA to the City of Oak Park Heights, Minnesota twenty days before conducting the research.

312.050

Asphalt Based Sealcoat Products.

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

312.060

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.

312.070

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.

Passed by the City Council on January 28, 2014.