0/10°

#### **ORDINANCE**

An Ordinance create Section 7.325 of the Manitowoc Municipal Code regulating Application and Sale of Coal Tar and Other High-PAH Sealant Products.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 7.325 is created to read as follows:

## "7.325 Application and Sale of Coal Tar and Other High-PAH Sealant Products

(1) Purpose and Intent. The City of Manitowoc finds that its local water resources are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The City of Manitowoc is concerned about the environmental and human health impact that exposure to polycyclic aromatic hydrocarbons (PAHs) may pose and finds that the environmental and human health impacts can by minimized and pavement can be maintained by utilizing alternative products or methods. Therefore, the City of Manitowoc intends to regulate the amount of contaminants, including PAHs contained in coal tar scalant products and other high-PAH scalant products.

### (2) Definitions.

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

Coal Tar Sealant Product means a pavement sealant product that contains coal tar, coal tar pitch, coal tar 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 means 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 CAS number 64742-90-1; 69013-21-4 or related substances.

Pavement Sealant Product, or Sealcoat, is 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) are 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.

Director means the Director of Public Infrastructure.

# (3) Regulation of the Application and Sale of Coal Tar and Other High PAH Sealant Products.

- (a) Except as provided in 7.325(4), no person shall apply any coal tar sealant product or high PAH sealant product within the City of Manitowoc.
- (b) No personal shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City of Manitowoc.
- (c) Any person who sells pavement sealant products 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 City of Manitowoc is prohibited by Manitowoc Municipal Code Section 7.325.

(d) No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under the 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 City of Manitowoc.
- (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 City of Manitowoc.
- (4) Exemptions. The Director may exempt a person from a requirement of this section if:
  - (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 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, or
  - (b) The person does not intend to apply the sealant within the municipal boundaries.

#### (5) Penalties.

- (a) Any person who violates section 7.325(3) by applying a coal tar sealant product or high PAH sealant product at his or her residence shall be subjected to a forfeiture not to exceed \$500. Each day that a violation occurs or continues is a separate offense and subject to an additional forfeiture.
- (b) Any commercial sealant product applicator, residential or commercial developer, industrial or commercial owner or any other person other than a person identified in sub(a) above, who violates section 7.325(3), shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000. Each day that a violation occurs or continues is a separate offense and subject to an additional forfeiture.
- (6) Severability. The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section."

Section 2. This ordinance shall take effect the day after publication.

INTRODUCED	MAR 1 8 2019	ADOPTED
Justin M. Nickels, Ma	ayor	APPROVED
Fiscal Impact: Funding Source: Finance Director App Approved as to form:	\$0 n/a roval: /sc /kmn	n

This resolution was drafted by Elizabeth Majerus, Assistant City Attorney

\\city-citylaw\cycom\WPDocs\D007\P008\Ordinance to Ban Use of PAH Sealants.docx