

CHAPTER 744. BANNING USE OF COAL TAR SEALANT PRODUCTS IN THE CITY OF ASHLAND

744.01. DEFINITIONS. As used hereinbelow, the following terms shall have the meanings indicated:

- a) **COAL TAR.** A byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- b) **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.
- c) **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 (CAS) numbers 64742-90-1, 69013-21-4, or related substances.
- d) **PAVEMENT SEALANT PRODUCT OR SEALCOAT.** Any substance that is typically applied as a coating on paved surfaces to protect the surfaces from water, oils, and/or damage from ultraviolet light. This may include but is not limited to sealant products that are coal tar-based or asphalt based.
- e) **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.

744.02 REGULATING THE APPLICATION OR SALE OF COAL TAR AND OTHER HIGH PAH SEALANT PRODUCTS.

- a) Except for those exemptions provided for in section 744.03, no person shall apply any coal tar sealant product or high PAH sealant product within the City limits.
- b) No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City limits.
- c) Any person who sells pavement sealant products shall prominently display, on the shelf, pallet, rack, display fixture or space where such pavement sealant products are sold, a legible written 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 is prohibited by chapter 744 of the 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 migrate into homes, buildings, and soils, or be carried by storm water and other runoff into the water resources of the City." No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person's ownership or control.

- d) No person shall contract with a commercial applicator, residential or commercial developer, or any other person for the application of a coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City.
- e) No commercial applicator, residential or commercial developer, or other similar person or entity shall apply, or allow, cause or direct any employee, independent contractor, volunteer or other person to apply, a coal tar sealant product or high PAH sealant product to any driveway, parking lot or other surface within the City.

744.03 EXEMPTIONS. The Director of Public Works may exempt a person from the restrictions or prohibitions under section 744.02 if the Director makes either of the following determinations:

- 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; and the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that such research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, nor unduly endanger human health.
- b) The person does not intend to apply the sealant product within the City's boundaries.

744.04 PENALTIES. In addition to other action or relief to which the City may be entitled to prevent or remove a violation, penalties assessed for convictions of violating this ordinance shall be as follows:

- a) Any person who violates section 744.02 by applying a coal tar sealant product or high PAH sealant product upon property that is his or her residence shall be subject to a forfeiture of up to \$500, plus the costs of prosecution, including reasonable attorney's fees.
- b) Any commercial applicator, residential or commercial developer, industrial or commercial property owner or lessee, or any other person, other than a person identified under subsection (d) 1, who violates section 744.02 shall be subject to a forfeiture of up to \$5,000, plus the costs of prosecution, including reasonable attorney's fees.
- c) Each violation, and each day that a violation occurs or continues, constitutes a separate offense and shall be punishable as such.

ADOPTED: 744 (XXX) 02/11/2020