

ORDINANCE NO. 2888

**AMENDING CHAPTER 9 OF THE CITY OF GREENFIELD CODE OF
ORDINANCES REGULATING THE APPLICATION AND SALE OF
COAL TAR SEALANT PRODUCTS**

WHEREAS, the City of Greenfield, finds that the City's 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; and

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

NOW, THEREFORE, BE IT ORDAINED by the City of Greenfield Common Council, as follows:

PART I. Section 9.14 is hereby created to read as follows:

COAL TAR SEALANT PRODUCTS

(1) DEFINITIONS.

- (a) COAL TAR is a byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- (b) COAL TAR SEALANT PRODUCT means 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 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 chemical abstracts service number 64742-90-1, 69013-21-4 or related substances.
- (d) 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.
- (e) 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.

(2) ENFORCEMENT.

- (a) Violations of this ordinance will be enforced by the City of Greenfield.

(3) REGULATION OF THE APPLICATION AND SALE OF COAL TAR OR OTHER HIGH PAH SEALANT PRODUCTS.

- (a) No person shall apply any coal tar sealant product or high PAH sealant product within the City of Greenfield.
- (b) Except as provided in Section (4) (Exemptions), No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City of Greenfield.
- (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 Greenfield is prohibited by Chapter 9.14 of the City of Greenfield Code of Ordinances. 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 stormwater and other run off into the water resources of the City of Greenfield.
- (d) 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.
- (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 Greenfield.

- (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 Greenfield.

(4) EXEMPTIONS.

- (a) A person is exempt from the requirements of Chapter 9.14(3)(b) if they do not intend to apply the sealant within City of Greenfield boundaries.

(5) PENALTY.

- (a) Any person who violates Chapter 9.14(3) by applying a coal tar sealant product or high PAH sealant product at his or her residence shall be subjected to a fine not to exceed \$500.
- (b) Each day that a violation occurs or continues is a separate offense and subject to an additional fine.
- (c) Any commercial sealant product applicator, residential or commercial developer, industrial or commercial owner, or any other person, other than a person identified under sub. (a) above, who violates Chapter 9.14(3), shall be subject to a fine of not less than \$1,000 nor more than \$10,000. Each incidence of a violation shall constitute a separate offense. Upon default of payment, the violator shall be subject to imprisonment for not less than 30 days nor more than 100 days.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on the 4th day of April, 2018.

APPROVED:

Michael J. Neitzke
Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen
Jennifer Goergen, City Clerk

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