

VILLAGE OF NORTH BARRINGTON

ORDINANCE NO. 1287

AN ORDINANCE TO EXCLUDE THE USE OF COAL TAR BASED SEALANTS AND OTHER HIGH POLYCYCLIC AROMATIC HYDROCARBON SEALANTS ON ALL PROPERTIES WITHIN THE VILLAGE OF NORTH BARRINGTON, BY THE VILLAGE OF NORTH BARRINGTON, LAKE COUNTY, ILLINOIS

WHEREAS, the Village of North Barrington is a member Government of the Barrington Area Council of Governments (BACOG) and BACOG has studied coal tar based sealants and other pavement sealants and the Polycyclic Aromatic Hydrocarbons (PAH) these sealants contain, and some of the PAH in coal tar based sealants and other high PAH sealants are persistent organic compounds that have harmful impacts on humans and aquatic ecosystems; and

WHEREAS, some of these PAH are known carcinogens and are toxic to mammals, birds, fish, amphibians and plants, and in humans prolonged exposure to PAH have been linked to blood, kidney, liver, lung, scrotal, skin and stomach cancers, and children under age six are at greatest increased risk of cancer; and

WHEREAS, aquatic invertebrates are particularly susceptible to PAH contamination where possible adverse effects include inhibited reproduction, delayed emergence, sediment avoidance, and mortality, and where possible adverse effects in fish include liver abnormalities, fin erosion, cataracts and immune system impairments; and

WHEREAS, the PAH in coal tar based sealants and other high PAH sealants volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and can be abraded off sealed pavement by vehicle and foot traffic as small particles and carried into homes and onto nearby soils and are washed into streams, water bodies and/or storm sewers with stormwater; and

WHEREAS, coal tar based sealants and other high PAH sealants are commonly re-applied by property owners, both public and private, to driveways, parking lots, tennis courts, playgrounds, and other asphalt paved surfaces every two to four years to maintain a dark restored appearance, and so the addition of PAH to the environment can be a continuous process; and

WHEREAS, the Village of North Barrington recognizes that the protection of human health and safety is a primary purpose of government and that the protection, maintenance and restoration of the natural environment including water resources is an important and essential planning goal for government; and

WHEREAS, the Village of North Barrington desires to reduce residents' exposure to PAH from sealants in the environment, thereby protecting and improving the overall public health and safety;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of North Barrington, Lake County, Illinois, as follows:

Section 1. The foregoing recitals are incorporated herein as the findings of the Board of Trustees of the Village of North Barrington.

Section 2. Title 4 of the Village Code of the Village of North Barrington is hereby amended to add thereto a new Chapter 8, Coal Tar Based Sealants and PAH Sealants, as follows:

CHAPTER 8. COAL TAR BASED SEALANTS AND PAH SEALANTS

4-8-1: DEFINITIONS:

4-8-2: PRODUCT IDENTIFICATION:

4-8-3: CERTIFICATION:

4-8-4: PENALTIES:

4-8-1: DEFINITIONS:

"Sealants" as used in this Chapter shall mean and include: "Pavement Sealant", "Pavement Seal", "Sealcoat," "coal tar based sealant" and "High PAH Sealants" any of which signifies a liquid that is applied to asphalt surfaces or in some occasions on any surface, to protect the surfaces from damage or further damage usually due to the freezing and thawing cycles, ultra-violet frequency rays and/or traffic.

"Applicator" shall mean any person who, for compensation applies a sealant within the Village to public or privately owned surfaces including driveways, parking lots, or recreational surfaces.

4-8-2: PRODUCT IDENTIFICATION:

Polycyclic Aromatic Hydrocarbons (hereinafter "PAH") are unsubstituted Polycyclic Aromatic Hydrocarbons (PAH) and PAH derivatives found in coal-tar and asphalt-based seal coat products.

The Health Officer may request the Material Safety Data Sheet (MSDS), (or called the Safety Data Sheet (SDS)), for the Sealant proposed to be used or being used by any Applicator, and may scrutinize the Chemical Abstract Service (CAS) numbers on the ingredient list of the

product and shall require that all Applicators refrain from using any product with the identifiers found in Table A below:

TABLE A:

Coal Tar Based Sealants

- a CAS#65996-92-1
- b CAS#65996-93-2
- c CAS#65996-89-6
- d CAS#8007-45-2
- e Coal Tar
- f. Coal Tar Pitch
- g Coal Tar Distillates
- h RT-12
- i. Refined Tar
- j. Refined Coal Tar Pitch
- k. Coal Tar Pitch Volatiles
- l. Tar

Other High PAH Sealants

- a. CAS#64742-90-1
- b. CAS#69013-21-4
- c. Steam-cracked Petroleum Residues
- d. Steam-cracked Asphalt
- e. Pyrolysis Fuel Oil
- f. Pyrolysis Oil
- g. Heavy Aromatic Pyrolysis Oil
- h. Heavy Fuel Oil (HFO)
- i. Heavy Pyrolysis Oil (HPO)
- j. Ethylene Tar
- k. Ethylene Bottoms

As other coal tar and high PAH sealants are identified by descriptive terms and/or are identified by CAS#, this additional product information may be added to the product list stated above by ordinance amending this Table and thereafter shall be excluded from use.

It shall be unlawful and in violation of this ordinance for any Applicator or any person to apply any Sealant that exceeds 0.1% total PAH by weight. If it is not clear if a sealant product contains levels of PAH in excess of those described in Table A, then a product's total PAH content by weight may be determined by independent laboratory analysis; alternately, a product's total PAH content by weight may be estimated through the use of the MSDS (or SDS), independent laboratory analysis, independent peer-reviewed research, studies by authoritative governmental bodies, or a combination of these sources.

4-8-3: CERTIFICATION:

Prior to application of Sealants by any Applicator, such applicator shall sign a certification on a form provided by the Village of North Barrington that the Applicator and any person acting under the direction of the Applicator) will not apply any products prohibited under this ordinance to any public or private property within the Village of North Barrington.

4-8-4: PENALTIES:

Any person found guilty of violating any of the provisions of this chapter shall be subject to the provisions of Chapter 4:1-4-1 General Penalty as determined by the findings of the Health Officer.

This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner as provided by law.

Passed this 22ND day of June, 2016 by roll call vote:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jackie Andrew	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Edmund P. Boland	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Trustee Martin Pais	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Janice Sauer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Todd Smith	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Lawrence Jay Weiner	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

APPROVED THIS 22nd DAY OF June, 2016.

Albert R. Pino, Village President

(SEAL)

ATTEST: _____

Kathy Nelander, Village Clerk

Published: June 23, 2016