

AS PROPOSED FOR TOWNSHIP BOARD, SECOND READING, APRIL 17, 2017

**STATE OF MICHIGAN  
COUNTY OF WASHTENAW  
ANN ARBOR CHARTER TOWNSHIP  
BOARD OF TRUSTEES**

**ORDINANCE NO. \_\_\_\_-2017  
ADDING CHAPTER 26, ARTICLE IX  
USE OF PAVEMENT SEALANT PRODUCTS**

The Ann Arbor Charter Township Board of Trustees ordains and adopts the following new Article IX of Chapter 26 of the Township Code of Ordinances as follows:

**AN ORDINANCE TO PROHIBIT THE USE AND SALE OF HIGH-PAH CONTENT SEALANT PRODUCTS, INCLUDING COAL-TAR BASED SEALANTS, WITHIN ANN ARBOR TOWNSHIP AND TO REQUIRE REGISTRATION OF COMMERCIAL APPLICATORS**

**Chapter 26 Environment**

**Article IX. USE OF PAVEMENT SEALANT PRODUCTS**

**DIVISION 1. PURPOSE.**

**Sec. 26-525. Purpose of article.**

Ann Arbor Charter Township finds 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 Township also finds that the use of sealants on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealants have demonstrated a relationship between the use of coal tar-based sealants and certain health and environmental concerns, including increased cancer risk to humans and impaired water quality in streams.

The purpose of this ordinance is to promote the public health, safety, comfort, and general welfare of the community through prohibiting, among other things, the use and sale of pavement-sealant products containing greater than 0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar-based sealants in Ann Arbor Township in order to protect, restore, and preserve the quality of its waters and protect the health of its residents.

It is the further purpose and intent of this article to require the registration of commercial and institutional applicators of sealant products within the Township.

This article shall be known and may be cited as the Ann Arbor Charter Township ("Township") Pavement Sealant Ordinance.

**DIVISION 2. DEFINITIONS.**

**Sec. 26-526. Definition of terms.**

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:

*Coal tar.* A byproduct of the process used to manufacture coke from coal.

*Coal tar-based sealant product.* A surface-applied pavement sealing product containing 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 containing more than 0.1% PAHs, by weight.

*Commercial applicator.* Any person in the business of applying pavement sealants in the Township in exchange for money, goods, services, or other valuable consideration.

*High PAH content sealant product.* A surface-applied pavement sealing product 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) number 64742-90-1, 69013-21-4 or related substances containing more than 0.1% PAHs, by weight.

*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 known to be harmful to humans, fish, and other aquatic life.

*Pavement sealant.* Any surface-applied pavement sealing product used to maintain asphalt surfaces. This may include but is not limited to asphalt-based sealant products and coal tar-based sealant products.

*Pavement Sealant Program Administrator.* The Building Official, or other person designated by the Township Supervisor to administer this Article.

*Township.* The Charter Township of Ann Arbor.

**DIVISION 3. GENERAL PROVISIONS**

**Sec. 26-527. Prohibitions.**

- (a) No person may apply what the person knows to be a coal tar-based sealant product or high PAH content sealant product on any surfaces in the Township.
- (b) No person may ~~sell~~ or offer for sale in the Township any coal tar-based sealant product or high PAH content sealant product that is formulated, designed, or marketed for application on surfaces.
- (c) No person may knowingly allow a coal tar-based sealant product or high PAH content sealant product to be applied upon property in the Township that is within that person's possession or control.
- (d) No person may contract with any other person, including any commercial applicator or developer, for the application of what that person knows to be a ~~any~~ coal tar-based sealant product or high PAH content sealant product to any surface within the Township.
- (e) No person may direct any employee, independent contractor, volunteer, or other person to apply what that person knows to be a ~~any~~ coal tar-based sealant product or high PAH content sealant product to any surface within the Township.

**Sec. 26-528. Registration and reporting requirements and procedures for commercial applicators.**

- (a) Commercial applicators shall be registered with the Township prior to applying any type of pavement sealants in the Township.
- (b) An approved registration under this Article shall be valid until expiration or voiding. Registrations under this Article shall expire on December 31 of each calendar year.
- (c) To seek registration, Commercial applicators shall submit a complete registration application to the Pavement Sealant Program Administrator on forms furnished by the Township Clerk, along with the registration fee according to the schedule established by resolution of the Township Board. The fee shall be calculated to include the cost of registration application review and periodic field inspection.
- (d) The following information shall be included in a complete application for registration under this Article:
  - (1) The legal name of the commercial applicator, any other names used (including aliases and trade names), the address, telephone number, and contact person for the commercial applicator.
  - (2) The product name, type of use, and PAH content, including CAS numbers, for any pavement sealants the commercial applicator intends to apply.

- (e) The Pavement Sealant Program Administrator shall approve the registration of a commercial applicator if its application is complete, and the commercial applicator did not violate the Pavement Sealant Ordinance during the preceding year.
- (f) Any application for registration shall be approved or denied within 21 days of its receipt by the Pavement Sealant Program Administrator.
- (g) The Pavement Sealant Administrator shall maintain a current list of all registered commercial applicators.
- (h) A registered commercial applicator shall notify the Pavement Sealant Program Administrator in writing of any change in the information in the application for registration within seven (7) days of any such change. Failure to comply with this requirement shall cause the commercial applicator's registration to expire.

**Sec. 26-529. Penalty.**

Any person who violates any provision of this Pavement Sealant Ordinance commits and is responsible for a municipal civil infraction, the sanctions for which are:

- (a) a maximum civil fine of no more than \$1,000.00; and,
- (b) voiding of any registration under this Pavement Sealant Ordinance. .

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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.

**Sec. 26-531. Effective date.**

This ordinance becomes effective sixty (60) days after ~~on~~ the date of its publication.

YEAS:

NAYS:

ABSTAIN/ABSENT:

ORDINANCE DECLARED ADOPTED.

AS PROPOSED FOR TOWNSHIP BOARD, SECOND READING, APRIL 17, 2017

**CERTIFICATION**

I hereby certify that the above is a true copy of an ordinance amendment adopted by the Ann Arbor Charter Township Board at a \_\_\_\_\_ meeting held on \_\_\_\_\_, 2017, pursuant to the required statutory procedures.

Respectfully submitted by:

Dated: \_\_\_\_\_, 2017

\_\_\_\_\_  
Rena Basch  
Ann Arbor Charter Township Clerk

First Reading: \_\_\_\_\_, March 20, 2017

Second Reading \_\_\_\_\_, 2017

Adopted: \_\_\_\_\_, 2017

Published and Effective: \_\_\_\_\_, 2017 (upon publication)