

CHAPTER 5.**ENVIRONMENT****535. REGULATION OF USE OF COAL TAR-BASED SEALER PRODUCTS WITHIN THE CITY****Section 535.01 Purpose.**

Subd. 1. The purpose of this ordinance is to regulate the use of coal tar based sealer products within the City of Medina, in order to protect, restore, and preserve the quality of its waters. The City has undertaken water quality maintenance practices to achieve that goal; including but not limited to: cleaning and removing sediment from ponds; snow removal practices that eliminate or significantly reduce the need to apply salt to roadway surfaces; public education and outreach to citizens about managing water runoff as a means of keeping pollutants out of water bodies; banning the use of fertilizers that contain phosphorous; and adopting an infiltration and inflow policy to eliminate the direct discharge of residential stormwater into lakes. The City of Medina understands 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.

Subd. 2. The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of pavement sealers have demonstrated a relationship between stormwater runoff and certain health and environmental conditions, including the presence of Polycyclic Aromatic Hydrocarbons (PAHs), a known carcinogen.

Subd. 3. The Minnesota Pollution Control Agency has issued a report indicating that coal tar-based sealcoat products are a source of Polycyclic Aromatic Hydrocarbons (PAHs) in stormwater sediments. PAH is a known carcinogen. The runoff from parking lots and driveways coated with coal tar sealants can contain PAHs concentrations 65 times higher than uncoated pavements. Stormwater runoff carries the PAHs into stormwater ponds and water bodies, increasing the cost of cleaning the stormwater ponds substantially due to the special requirements for disposal of sediment containing PAHs.

Section 535.03. Definitions. 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:

Subd. 1. Asphalt-Based Sealer. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

Subd. 2. Coal Tar. A byproduct of the process used to refine coal.

Subd. 3. Undiluted Coal Tar-Based Sealer. A sealer material containing coal tar that has not been mixed with asphalt and which is commonly used on driveways, parking lots and other surfaces.

Subd. 4. MPCA. The Minnesota Pollution Control Agency.

Subd. 5. PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. These substances are present in coal tar and believed harmful to humans, fish, and other aquatic life.

Section 535.05. Prohibitions.

Subd. 1. No person shall apply any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City of Medina.

Subd. 2. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Subd. 3. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Section 535.07. Exemption. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of undiluted coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in Subd. 3.

Section 535.09. Asphalt-Based Sealcoat Products. The provisions of this ordinance shall only apply to use of undiluted coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

Section 535.11 Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor.

Section 535.13 Severability. 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.

Amendment History of this Section

Adopted July 17, 2012 (Ord. 533).