**Coal Tar Sealant Products, LMC Model Ordinance**

*League staff thoughtfully develops models for your city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background information on this model may be found in the* [*Environmental Regulations*](https://www.lmc.org/resources/handbook-for-minnesota-cities-chapter-15-environmental-regulations/) *chapter of the Handbook for Minnesota Cities.*

**ORDINANCE NO.** **\_\_\_\_\_**

**AN ORDINANCE TO ENFORCE THE STATUTORY PROHIBITION ON THE USE AND SALE OF COAL TAR SEALANT PRODUCTS WITHIN THE CITY OF\_\_\_\_\_, MINNESOTA**

**The City Council of \_\_\_\_\_, Minnesota ordains:**

**SECTION 1. PURPOSE**.

The City of \_\_\_\_\_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.

The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns.

Minn. Stat. § 116.202 prohibits the use and sale of coal tar sealant products unless approved by the Commissioner of the Minnesota Pollution Control Agency (MPCA).

The purpose of this ordinance is to prohibit violations of Minn. Stat. § 116.202 in the City of \_\_\_\_\_, Minnesota, in order to protect, restore, and preserve the quality of its waters.

**SECTION 2. 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:

ASPHALT-BASED SEALER. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and does contain polycyclic aromatic hydrocarbons (PAHs).

COAL TAR. A byproduct of the process used to refine coal.

COAL TAR SEALANT PRODUCT. A surface-applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

CITY. The City of \_\_\_\_\_.

MPCA. The Minnesota Pollution Control Agency.

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 believed harmful to humans, fish, and other aquatic life.

**SECTION 3. PROHIBITIONS**.

In accordance with Minn. Stat. § 116.202

A. No person shall apply a coal tar sealant product on asphalt paved surfaces within the City of \_\_\_\_\_**.**

B. No person shall sell a coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces within the City of \_\_\_\_\_.

C. No person shall allow a coal tar sealant product to be applied upon property that is under that person’s ownership or control.

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

E. 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 coal tar sealant product to any driveway, parking lot, or other surface within the City.

**SECTION 4. EXEMPTION**.

Upon the express written approval from the MPCA and in accordance with Minn. Stat. § 116.202, a person who conducts research on the environmental effects of coal tar sealant product or where the use of coal tar sealant product is necessary in the development of an alternative technology shall be exempt from the prohibitions provided in Section 3. Any person that is granted approval by the MPCA must provide a copy of the written approval from the MPCA to the City of \_\_\_\_\_, Minnesota twenty (20) days before conducting the research.

**SECTION 5. ASPHALT-BASED SEALCOAT PRODUCTS.**

The provisions of this ordinance shall only apply to coal tar sealant products in the City and shall not affect the use of asphalt-based sealer products within the City.

**SECTION 6. PENALTY**.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

**SECTION 7. 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.

**SECTION 8. EFFECTIVE DATE**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Passed by the City Council of \_\_\_\_\_\_\_, Minnesota this \_\_\_\_\_ day of Month, Year.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

Attested:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk