

ORDINANCE NO. O2022-05

AN ORDINANCE AMENDING THE WARRENVILLE CITY CODE TO PROHIBIT THE USE OF COAL TAR PRODUCTS AND ESTABLISH A PAVEMENT SEALING LICENSING PROGRAM

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, Title 3, titled "Business Regulations," of the Warrenville City Code ("**City Code**") regulates businesses operating within the City; and

WHEREAS, the Mayor and the City Council have determined that coal tar pavement sealants pose health risks to residents and their use should be prohibited ; and

WHEREAS, pursuant to the City's power under applicable law and the home rule powers of the City, the Mayor and the City Council have determined that it is in the best interest of the City and the public to amend Title 3 of the City Code to: (i) prohibit the use of coal tar pavement sealants within the City; and (ii) establish a pavement sealant professional license program, as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Pavement Sealants. Title 3, titled "Business Regulations," of the City Code, is hereby amended to add a new Chapter 28, titled "Pavement Sealants," the form attached to and made a part of this Ordinance as **Exhibit A**.

SECTION 3: Effective Date. This Ordinance shall be in full force and effect ten days after its passage, approval, and publication in the manner provided by law.

PASSED THIS ____ day of _____, 2022.

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

APPROVED THIS ____ day of _____, 2022.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

TITLE 3: BUSINESS REGULATIONS

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**CHAPTER 28
PAVEMENT SEALANTS**

3-28-1: DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Coal Tar Products: Means pavement sealant or sealcoat products that contain coal tar, coal tar pitch, coal tar derivatives, coal tar pitch volatiles, coal tar mixtures or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

Licensee: Means a holder of a pavement sealant professional's license issued by the City of Warrenville, as well as the agents, employees and independent contractors of the licensee.

Pavement Sealant Professional: Means any person that employs one or more individuals for the purpose of providing pavement sealing for clients including, but not limited to, pavement sealing of any driveway, driveway approach, on or off-street parking area, playground, sidewalk, bike trail, patio, sports facility, loading area or facility, or roadway.

Pavement Sealing: Means the application of sealant or sealcoat product to maintain any surface, including but not limited to, a driveway, driveway approach, on or off-street parking area, playground, sidewalk, bike trail, patio, sports facility, loading area or facility, street, highway, or roadway.

Person: Means any individual, association, partnership, firm, trust, corporation or limited liability company.

Vehicle: Means any motor-driven vehicle used by the licensee to transport employees or agents who work on pavement sealing, equipment, and/or debris.

3-28-2: SALE OF COAL TAR PRODUCTS PROHIBITED:

No person may sell, offer or display for sale within the City, at wholesale or retail, coal tar products of any kind.

3-28-3: USE OF COAL TAR PRODUCTS PROHIBITED:

On public and private property, no coal tar products of any kind shall be applied or used on the surface of any driveway, driveway approach, on or off-street parking area, playground, sidewalk,

bike trail, patio, sports facility, loading area or facility, street, highway, roadway, or paved surface within the City.

3-28-4: PAVEMENT SEALANT PROFESSIONAL LICENSE REQUIRED:

A. No pavement sealant professional shall perform any pavement sealing without first securing an annual license therefor from the City. The failure to comply with this license requirement shall be deemed a violation of this Chapter.

B. Except as otherwise provided by an annual fee resolution, the annual pavement sealant professional license fee shall be \$100.00. All applicable license fees and any other required fees shall be paid prior to the issuance of any license.

C. The license term shall expire on December 31 of the calendar year for which it is issued unless sooner revoked as provided in this Chapter.

D. A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this Chapter, and shall not constitute property. No license is transferable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.

3-28-5: APPLICATION FOR PAVEMENT SEALANT PROFESSIONAL LICENSE:

A. An application for a pavement sealant professional license shall be submitted to the Community Development Department. The application shall be completed in full and signed by the applicant, if an individual, or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, and shall set forth the following information:

1. Name, address, and contact information of the applicant; if the applicant is a partnership, the application shall show for each partner their name, address, contact information, and interest, and all information required by subsections (a)(2) through (a)(5) of this section, and if the applicant is a corporation, the application shall state the name, address, and contact information of the registered agent, and with respect to each director, and each shareholder owning 10 percent or more of the corporation's shares, a) their name and address, together with b) the information required by subsections (a)(2) through (a)(5) of this section.

2. Whether applicant ever made an application for a license under this Chapter, or a pavement sealant professional business license or similar license to a state or county, city, City or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.

3. Whether a license was ever issued to the applicant under this Chapter or a pavement sealant professional license or similar license was ever issued by any state or county, city, City or other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.

4. Whether the applicant has ever been convicted of a violation of any of the provisions of this Chapter or any ordinance of any other Illinois municipality which regulates pavement sealant professionals, or any Illinois Statute regulating pavement sealant professionals.

5. A statement that the applicant has reviewed and understands the applicable ordinances of the City including, but not limited to, the prohibition on the use and sale of coal tar products in the City, and will promulgate same and educate its employees thereof.

6. The location of the applicant's office and garage.

7. A complete description of each vehicle, including the year, make, model and license plate directly involved in the pavement sealing activities and owned and controlled by the applicant.

8. Payment of the annual license fee.

9. Product data or MSDS sheets for all products the applicant will use within the City of Warrenville.

B. The applicant shall submit a written authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license.

C. The applicant shall submit such other information, documentation, and identification as the Community Development Department may deem necessary to determine the identity of the applicant or to process the application.

3-28-6: ISSUANCE, DENIAL, SUSPENSION, RENEWAL, AND REVOCATION OF PAVEMENT SEALANT PROFESSIONAL'S LICENSE:

A. In addition to the provisions under section 3-10-12, "Revocation or Suspension of Licenses", of this Code, the City Administrator, or their designee, may deny, suspend, revoke, or refuse to issue or renew, a pavement sealant professional's license for any of the following reasons:

1. The use or sale of coal tar products by the licensee within the City;

2. The applicant or licensee is found in violation of this Chapter;

3. The applicant or licensee, if an individual; or any of the officers, directors, any person owning directly or beneficially more than 10 percent of the stock of the corporation, if the applicant or licensee is a corporation; or any of the partners, including limited partners, if the applicant, or licensee is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business, has been:

a. Convicted of a violation of any provision of this Chapter or any applicable provision of this Code; or

- b. Convicted of a violation of an ordinance of any other unit of local government regulating pavement sealant professionals; or
- c. Denied, suspended or revoked of a pavement sealant professional license or similar license by the City or any other jurisdiction; or
- d. Subject to pending proceedings to suspend or revoke a pavement sealant professional license or similar license issued by the City or any other jurisdiction; or
- e. Overdue on payment to the City of fees, fines, or penalties assessed against the licensee or imposed upon the licensee in relation to the sale or use of pavement sealants; or
- f. Providing false, misleading or fraudulent statements of fact in the license application or in any document required by the City in conjunction with the license application; or
- g. Failing to provide information required by the City in conjunction with the license application.

B. In the event that the application is denied for failure to comply with the requirements of this Chapter, the City Administrator, or their designee, shall immediately notify the applicant or licensee in writing of the reasons for the denial. If the failure is not cured within 10 days after the date on which the City Administrator, or their designee, denies the issuance of said license, the application shall be null and void.

C. No person whose license has been revoked may apply for a license for a period of one year following the date of such revocation.

D. The renewal of a license shall follow the same provisions required for the issuance of a license under this Chapter.

E. Except as otherwise provided by this section, the provisions of Chapter 10 of Title 3 of this Code shall govern the issuance, denial, suspension or revocation of this license.

F. Stop Work Order: In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within subsection A of this section.

3-28-7: DISPLAY OF PAVEMENT SEALANT PROFESSIONAL'S LICENSE AND PRODUCT DATA:

A. The pavement sealant professional must at all time when performing pavement sealing within the City have in their possession, and present, upon request from City staff, a current pavement sealant professional's license, an MSDS sheet of the sealant being applied, and an invoice stating brand/type of sealant being applied.

B. The failure to comply with the provisions of this section shall be deemed a violation of this Chapter.

3-28-8: PENALTY:

A. Any person found guilty of violating any provisions of this Chapter shall be subject to a fine as provided in section 1-4-1 of this Code. Every day that such violation is permitted to exist, or is maintained by the owner or occupant, shall be considered a separate offense

B. Any owner or occupant of property who permits a violation of section 3-28-3 of this Chapter to exist or continue upon the property shall be subject to a fine as provided in section 1-4-1 of this code. Every day that such violation is permitted to exist, or is maintained by the owner or occupant, shall be considered a separate offense.

3-28-9: EFFECTIVE DATE:

The effective date of this Chapter shall be January 1, 2023.