

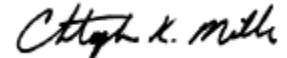
REQUEST FOR COUNCIL ACTION

Date: 06/13/11
Item No.: 9 . a

Department Approval



Acting City Manager Approval



Item Description: Adopt an Ordinance Regulating the Use of Coal Tar Based Sealers

BACKGROUND

The City Council discussed the impacts of coal tar based driveway sealers at its May 23, 2011 meeting. The Council directed staff to bring the draft ordinance back for adoption along with an ordinance summary for approval at a June council meeting.

The Public Works Environment and Transportation Commission recommends the City Council adopt an ordinance banning the use of coal tar based driveway sealants. These sealants are receiving considerable attention at the MPCA due to the potential health hazards that exist when they end up in storm water pond sediments. This type of driveway sealant was more prevalent in years past. The coal tar sealer flakes off from driveways over time and storm water runoff carries the material to storm water ponds. The coal tar sealants contain polycyclic aromatic hydrocarbons (PAH) which are known carcinogens. Due to the toxic nature, the sediments from storm water ponds are now required to be tested and classified for disposal. When certain levels of these substances are found the sediments need to be disposed of in hazardous materials landfills. This is very costly and is a metro wide problem, especially in the first and second tier suburbs as these materials were applied to driveways for many years. We have found these substances in two recent pond maintenance projects completed by watershed districts in Roseville. Oasis Pond restoration project completed by Rice Creek Watershed District and the William Street Pond project completed by Capitol Region Watershed District had high levels of PAH and required disposal at significantly high cost.

The Legislature considered a state wide ban on coal tar based sealant products in 2010 but did not pass legislation. There was no legislation introduced in this year's legislative session.

Coal tar sealers are no longer sold by most hardware stores and home improvement stores. They are still available and are being marketed by door to door driveway coatings contractors. Staff requested the City Attorney modify the League of Minnesota Cities model ordinance, which allowed diluted coal tar sealers, to reflect a total ban on coal tar emulsions similar to ordinances adopted in White Bear Lake, Maplewood, and other communities.

Attached is the Attorney reviewed draft ordinance for adoption. (Attachment A) We have also attached an ordinance summary for publication. (Attachment B)

35

36 **POLICY OBJECTIVE**

37 The City's Comprehensive Plan and the Comprehensive Storm Water Management Plan
38 discuss the importance of protecting the city's water resources and the health, safety, and
39 welfare of city residents. This ordinance is consistent with those objectives.

40 **FINANCIAL IMPACTS**

41 The adoption of this ordinance should not have a negative impact on city budgets or
42 operations.

43

44 **STAFF RECOMMENDATION**

45 Staff recommends the Council adopt the attached ordinance banning the use of coal tar base
46 sealers in Roseville and approve the ordinance summary for publication. The Public Works
47 Environment and Transportation Commission also recommends the city ban the use of coal
48 tar based driveway sealers in the City of Roseville.

49 **REQUESTED COUNCIL ACTION**

50

51 Motion adopting an ordinance, Chapter 410 Banning the Use of Coal Tar Sealants and
52 approving the ordinance summary for publication.

53

54

Prepared by: Duane Schwartz, Public Works Director
Attachments: A. Draft Ordinance
B. Ordinance Summary

City of Roseville
ORDINANCE NO. ____

**AN ORDINANCE ADDING CHAPTER 410 TO TITLE FOUR OF THE
ROSEVILLE CITY CODE REGULATING THE USE OF COAL TAR BASED
SEALER PRODUCTS WITHIN THE CITY OF ROSEVILLE, MINNESOTA**

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Chapter 410 is hereby added to Title Four of the Roseville City
Code:

SECTION:

- 410.01: Purpose
- 410.02: Definitions
- 410.03: Prohibitions
- 410.04: Exemption
- 410.05: Asphalt-Based Sealcoat Products
- 410.06: Penalty
- 410.07: Severability

410.01: PURPOSE

The City of Roseville 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 City of Roseville Comprehensive Plan supports protection of these resources.

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

The purpose of this ordinance is to regulate the use of sealer products within the City of Roseville, in order to protect, restore, and preserve the quality of its waters.

410.02: DEFINITIONS

Except as otherwise 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 which does not contain coal tar.

COAL TAR SEALER: A coal tar based sealer is a black liquid containing coal tar pitch that is sprayed or painted on asphalt parking lots and driveways.

COAL TAR: A byproduct of the process used to refine coal for the steel industry.
CITY: City of Roseville.
MPCA: 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.

410.03: PROHIBITIONS

- A. No person shall apply any coal tar based sealer to any driveway, parking lot, or other surface within the City of Roseville.
- B. 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 based sealer to any driveway, parking lot, or other surface within the City.
- C. 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 based sealer to any driveway, parking lot, or other surface within the City.
- D. A person may not sell a coal tar based sealer product within the City, unless:
 - 1. The sale is to a person who intends to use the coal tar based sealer outside the City's planning jurisdiction; and
 - 2. The seller requires the purchaser to complete and sign a form provided by the City that includes:
 - a. The name, address, and phone number of the purchaser,
 - b. The date of the purchase,
 - c. The quantity of coal tar based sealer purchased,
 - d. A statement that the coal tar based sealer will not be used within the City of Roseville,
 - e. An affirmation by the purchaser that the information on the form is correct, and
 - f. The seller retains the completed form for a period of not less than two years and allows the City to inspect or copy the form upon request.

410.04: EXEMPTION

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

410.05: ASPHALT-BASED SEALCOAT PRODUCTS

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

410.06: 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

81 (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of
82 prosecution in either case.

83 **410.07: SEVERABILITY**

84 If any provision of this ordinance is found to be invalid for any reason by a court of
85 competent jurisdiction, the validity of the remaining provisions shall not be affected.

86
87
88 SECTION 2: Effective date. This ordinance shall take effect upon its passage and
89 publication.

90
91 Passed by the City Council of the City of Roseville this ____ day of _____ 20__.

94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111

Ordinance – Adding Chapter 410

(SEAL)

CITY OF ROSEVILLE

BY: _____
Daniel J. Roe, Mayor

ATTEST:

William J. Malinen, City Manager

**CITY OF ROSEVILLE
ORDINANCE SUMMARY NO. ____**

**A SUMMARY OF AN ORDINANCE AMENDING TITLE 4, ADDING CHAPTER 410
COAL TAR SEALANTS**

The following is the official summary of Ordinance No. _____ approved by the City Council of Roseville on June 13, 2011:

The Roseville City Code is amended by creating a new chapter, Chapter 410, regarding a ban on the use of coal tar based sealants in the City of Roseville. This is a new ordinance created to; regulate the use of coal tar based driveway sealants to reduce the contribution of harmful pollutants to storm water ponds in the city, to protect the health and safety of its residents, and to establish legal authority to carry out actions necessary to ensure compliance with the ordinance. The ordinance takes effect upon this publication.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary is also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2160 Hamline Avenue, Roseville, Mn. 55113, and on the internet web page of the City of Roseville (www.ci.roseville.mn.us).

Attest: _____
City Manager