

**THE VILLAGE OF ELM GROVE CODE OF ORDINANCES  
CREATION OF CHAPTER 120 COAL TAR SEALANT**

THE VILLAGE BOARD OF THE VILLAGE OF ELM GROVE DO ORDAIN AS FOLLOWS:

Section 1: §120 Of the Village of Elm Grove code of Ordinances is hereby created.

**§120-1. Definitions**

- a. Coal Tar Sealant means a Pavement Sealant that contains 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.
- b. High PAH Sealant means any Pavement Sealant that contains greater than 1.0% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, Coal Tar Sealants and Pavement Sealants 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 number 64742-90-1, 69013-21-4 or related substances.
- c. Pavement Sealant is any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to products that are coal tar or asphalt based.

**§120-2. Regulation of the application and sale of High PAH Sealants.**

- a. Except as provided in Section 120-3 (Exemptions), no person shall apply any High PAH Sealant within the Village of Elm Grove (hereinafter Village).
- b. No person shall allow a High PAH Sealant to be applied upon property within the Village that is under that person's ownership or control.
- c. No person shall sell, offer to sell, or display for sale any High PAH Sealant within the Village.
- d. Any person who sells Pavement Sealants within the Village shall prominently display, in the area where such Pavement Sealants are sold, a notice that contains the following language:

“The application of Pavement Sealants containing greater than 1.0% polycyclic aromatic hydrocarbons (PAHs) by weight on driveways, parking lots and all other paved surfaces in the Village of Elm Grove is prohibited by Chapter 120 of the Village Code of Ordinances. Polycyclic Aromatic Hydrocarbons (PAHs), are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life and that can travel into homes, buildings, and soils, or be carried by stormwater

and other run off into water resources.

- e. No commercial applicator company, residential or commercial developer, or other similar individual or entity shall apply or direct any employee, independent contractor, volunteer, or other person to apply any High PAH Sealant to any driveway, parking lot, or other surface within the Village.

### **§120-3. Exemptions.**

The Public Works Director may exempt a person or entity from a requirement of this Chapter if: The person is conducting bona fide research concerning the effects of a High PAH Sealant on the environment; the use of the High PAH Sealant is required for said research; and it is determined that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health.

### **§120-4 Penalty.**

- a. Any person, company or other entity that violates §120-2 shall be subject to a fine as provided in §1-16 of this Code.
- b. Each day that a violation of §120-2(c) occurs or continues is a separate offense and subject to an additional fine.
- c. Each incidence of a violation shall constitute a separate offense.

**Section 2:** If any section, paragraph, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remainder of such ordinance.

**Section 3:** This ordinance shall be in full force and effect ten (10) days after its passage and posting.

VILLAGE OF ELM GROVE

Dated this 28<sup>th</sup> day of August 2017.

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Neil H. Palmer, Village President

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Mary S Stredni, Village Clerk