

**VILLAGE OF DEERFIELD
LAKE AND COOK COUNTIES, ILLINOIS**

ORDINANCE NO. O-18-07

AN ORDINANCE ADDING CHAPTER 12 (“HEALTH”), ARTICLE 8 (“PAVEMENT SEALANTS”), AS AMENDED, TO THE MUNICIPAL CODE OF THE VILLAGE OF DEERFIELD TO REGULATE THE USE AND SALE OF COAL TAR PAVEMENT SEALANTS AND LICENSING OF PAVEMENT SEALANT PROFESSIONALS

**PASSED AND APPROVED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF DEERFIELD, LAKE
AND COOK COUNTIES, ILLINOIS, this**

2nd day of April , 2018.

**Published in pamphlet form
by authority of the President
and Board of Trustees of the
Village of Deerfield, Lake and
Cook Counties, Illinois, this
 2nd day of April , 2018.**

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AN ORDINANCE ADDING CHAPTER 12 (“HEALTH”), ARTICLE 8 (“PAVEMENT SEALANTS”), AS AMENDED, TO THE MUNICIPAL CODE OF THE VILLAGE OF DEERFIELD TO REGULATE THE USE AND SALE OF COAL TAR PAVEMENT SEALANTS AND LICENSING OF PAVEMENT SEALANT PROFESSIONALS

WHEREAS, the Village of Deerfield is a home rule unit of local government under the provisions of Article VII, Section 6 of the Illinois Constitution that may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the corporate authorities of the Village of Deerfield find that numerous academic and government studies have found that coal tar pavement sealants contain significantly higher concentrations of polycyclic aromatic hydrocarbons which may damage human health and the environment; and

WHEREAS, the corporate authorities of the Village of Deerfield find that there are readily available alternatives to coal tar pavement sealants which are commonly used by individuals and pavement sealant professionals in the Village of Deerfield; and

WHEREAS, the corporate authorities of the Village of Deerfield have determined that the regulations provided herein are in the best interests of the public health, safety and welfare of the Village of Deerfield;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: The recitals to this Ordinance are incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION 2: Chapter 12 (“Health”) of the Municipal Code of the Village of Deerfield shall be amended to add the following as Article 8, which shall be entitled “Pavement Sealants”, and which shall read as follows:

Article 8. Pavement Sealants

Sec. 12-53. Definitions.

For the purposes of this Article, 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 Village of Deerfield, 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.

Sec. 12-54. Sale of coal tar products prohibited.

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

Sec. 12-55. 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 a 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 Village.

Sec. 12-56. Pavement sealant professional license required.

- (a) No pavement sealant professional shall perform any pavement sealing without first securing an annual license therefor from the Village. The failure to comply with this license requirement shall be deemed a violation of this Article.
- (b) Except as otherwise provided by an annual fee resolution, the annual pavement sealant professional license fee shall be One Hundred Dollars (\$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 Article.
- (d) A license shall be a purely personal privilege, effective for a period not to exceed one (1) year after issuance unless sooner revoked as provided in this Article, 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.

Sec. 12-57. Application for pavement sealant professional license.

- (a) An application for a pavement sealant professional license shall be made to the Village Manager on forms provided by the Village. 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 and address of the applicant; if the applicant is a partnership, the application shall show for each partner his name and address and interest, and all information required by paragraphs (2) through (6) of this Section, and if the applicant is a corporation, the application shall state the name and address of the registered agent, and with respect to each director, and each shareholder owning ten percent (10%) or more of the corporation's shares, (i) his or her name and address, together with (ii) the information required by paragraphs (2) through (6) of this Section.
 - 2. Whether the applicant has ever been convicted of the commission of a felony under the laws of this State, or any other state, or under the laws of the United States.
 - 3. Whether applicant ever made an application for a license under this Article, or a

pavement sealant professional business license or similar license to a state or county, city, village 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.

4. Whether a license was ever issued to the applicant under this Article or a pavement sealant professional license or similar license was ever issued by any state or county, city, village 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.
 5. Whether the applicant has ever been convicted of a violation of any of the provisions of this Article or any ordinance of any other Illinois municipality which regulates pavement sealant professionals, or any Illinois statute regulating pavement sealant professionals.
 6. A statement that the applicant has received copies of, reviewed and understands the applicable ordinances of the Village including, but not limited to, the prohibition on the use and sale of coal tar products in the Village, and will promulgate same and educate its employees thereof.
 7. The number and kind of vehicles owned and controlled by the applicant.
 8. The location of the applicant's office and garage.
 9. The color scheme, insignia, trade name, and telephone number located upon and used to designate the vehicles of the applicant.
 10. A complete description of each vehicle including the year, make, model and motor or factory number ("VIN") of the vehicle.
 11. Evidence that the applicant is covered by policies of: comprehensive general liability insurance, including bodily injury and property damage; and adequate workers' compensation and vehicle insurance unless the Village Manager, in his or her sole discretion, waives any or all of these insurance requirements.
 12. Payment of the annual license fee.
- (b) The applicant shall submit a written authorization for the Village, 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 Village Manager may deem necessary to determine the identity of the applicant or to process the application.

Sec. 12-58. Issuance, denial, suspension, renewal, and revocation of pavement sealant professional's license.

- (a) In addition to the provisions under Section 1-26 ("Suspension Or Revocation Of Licenses Or Permits; Refusal To Issue Licenses Or Permits") of this Code, the Village Manager 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 Village;
 2. The applicant or licensee, if an individual; or any of the officers, directors, any person owning directly or beneficially more than ten percent (10%) 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:
 - (i) convicted of a felony under the laws of the State of Illinois or any other state, or under the Federal laws of the United States, within ten (10) years of the date of the application; or
 - (ii) convicted of any other criminal offense involving dishonesty, fraud, deceit or moral turpitude within ten (10) years of the date of the application; or
 - (iii) convicted of a violation of any provision of this Article or any applicable provision of this Code including, but not limited to, Chapter 14 ("Licenses"), Article 1 ("In General") of this Code; or
 - (iv) convicted of a violation of an ordinance of any other unit of local government regulating pavement sealant professionals; or
 - (v) denied, suspended or revoked of a pavement sealant professional license or similar license by the Village or any other jurisdiction; or
 - (vi) subject to pending proceedings to suspend or revoke a pavement sealant professional license or similar license issued by the Village or any other jurisdiction; or
 - (vii) overdue on payment to the Village 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
 - (viii) providing false, misleading or fraudulent statements of fact in the license application or in any document required by the Village in conjunction with the license application; or
 - (ix) failing to provide information required by the Village in conjunction with the

license application.

- (b) In the event that the application is denied for failure to comply with the requirements of this Article, the Village Manager shall immediately notify the applicant in writing of the reasons for the denial. If the failure is not cured within ten (10) days after the date on which the Village Manager 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 (1) 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 Article.
- (e) Except as otherwise provided by this Section, the provisions of Section 1-26 of this Code shall govern the issuance, denial, suspension or revocation of this license.
- (f) The Village Manager shall have the discretion to deny, suspend or revoke a license for a single violation of this Article.

Sec. 12-59. Display of pavement sealant professional's license.

- (a) All vehicles operated by the licensee must at all times display:
 - 1. The information required by Section 12-59(a)(9) of this Article; and
 - 2. The pavement sealant professional's vehicle sticker issued by the Village upon issuance of a license in an open and conspicuous place in the front driver's side window of the vehicle.
- (b) The failure to comply with the provisions of this Section shall be deemed a violation of this Article.

Sec. 12-60. Penalty.

- (a) Any person found guilty of violating any provisions of this Article shall be fined in an amount not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) for each offense. Every day that a violation exists constitutes a separate offense.
- (b) Any owner or occupant of property who permits a violation of Section 12-55 of this Article to exist or continue upon the property shall be fined in an amount not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense. Every day that such violation is permitted to exist, or is maintained by the owner of occupant, shall be considered a separate offense.

Sec. 12-61. Effective Date.

The effective date of this Ordinance shall be May 1, 2018.

SECTION 3: If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 4: This Ordinance, and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or, (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Deerfield that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 5: This Ordinance shall be in full force and effect upon its passage and approval and shall subsequently be published in pamphlet form as provided by law, except as otherwise provided herein.

PASSED this 2nd day of April, 2018.

AYES: Benton, Oppenheim, Seiden, Shapiro, Struthers

NAYS: Jester

ABSENT: None

ABSTAIN: None

APPROVED this 2nd day of April, 2018.


Village President Pro Tem

ATTEST:



Village Clerk