

ORDINANCE NO. 10-08

**AN ORDINANCE AMENDING CHAPTER 9-19
OF THE NEW HOPE CITY CODE REGULATING
THE USE OF COAL TAR-BASED SEALER PRODUCTS**

The City Council of the City of New Hope ordains:

Section 1. Section 9-19 “**Coal Tar-Based Sealer Use Prohibited**” of the New Hope City Code is hereby amended and added to read as follows:

9-19. Coal tar-based sealer use prohibited.

- (a) Purpose. The City of New Hope 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. The purpose of this section is to regulate the use of sealer products within the City in order to protect, restore, and preserve the quality of water within the City.

- (b) 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 clear indicates or requires a different meaning:

- (1) **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.
- (2) **COAL TAR.** A byproduct of the process used to refine coal.
- (3) **UNDILUTED COAL TAR-BASED SEALER.** A sealer material containing coal tar that has not been mixed with asphalt and which is commonly used on driveways, parking lots and other surfaces.
- (4) **MPCA.** The Minnesota Pollution Control Agency.
- (5) **PAHs.** Polycyclic Aromatic of coal Hydrocarbons. A group of organic chemicals formed during the incomplete burning, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

(c) Prohibitions.

- (1) No person shall apply any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.
 - (2) No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.
 - (3) 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 undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.
- (d) Exemption. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of undiluted coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in Section (c).
- (e) Asphalt-based sealcoat products. The provisions of this ordinance shall only apply to use of undiluted coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.
- (f) 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.
- (g) 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 2. Effective Date. This Ordinance shall be effective upon its passage and publication.

Dated the 28th day of June, 2010.

Kathi Hemken, Mayor

Attest: _____
Valerie Leone, City Clerk

(Published in the New Hope-Golden Valley Sun-Post the ____ day of _____, 2010.)