

Town of Gibraltar
Regulating the Application of Coal Tar Sealant Products
Ordinance 2023-03

The Town Board of Gibraltar, Door County, Wisconsin does ordain as follows:

WHEREAS, the Town of Gibraltar finds that the Town's water resources are a natural asset, which enhance the environmental, recreational, cultural, and economic resources of the area and contribute to the general health and welfare of the public; and

WHEREAS, the Town of Gibraltar finds that polycyclic aromatic hydrocarbons (PAHs), which are contained in coal tar sealants and other high PAH sealants, can be carried by storm water and other run off into the water resources of the Town, and

WHEREAS, PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and lower number of organisms; and

WHEREAS, PAH compounds have been proven to be carcinogenic, mutagenic and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal-tar sealcoat treated pavements and playgrounds have 38-fold higher risk of cancer, and the American Medical Association therefore advocates for legislation to ban use of pavement sealcoats that contain PAHs or require use of sealcoat products that contain minimal PAH; and

WHEREAS, environmental impacts and human health risks can be minimized and pavements can be maintained by utilizing alternative products or methods, absent PAHs; and

WHEREAS, the Town of Gibraltar finds that regulating the amount of contaminants, including PAHs contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the Town will improve and protect public health and the water quality of the Town and neighboring water resources;

NOW THEREFORE, BE IT ORDAINED by the Town of Gibraltar Town Board as follows:

- I.** Definitions:
 - (a) COAL TAR is a byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).

- (b) COAL TAR SEALANT PRODUCT means a pavement sealant product 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.
- (c) HIGH-PAH SEALANT PRODUCT means any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including but not limited to, coal tar sealant products and sealant products 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.
- (d) PAVEMENT SEALANT PRODUCT, or sealcoat, is any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based.
- (e) POLYCYCLIC AROMATIC HYDROCARBONS (PAHs) are a group of organic chemicals that are formed during the complete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.

II. Regulation of the Application and Sale of Coal Tar or other High-PAH Sealant Products:

- (a) Except as provided in Section III (Exemptions), no person shall apply any coal tar sealant product or high PAH sealant product within the Town of Gibraltar
- (b) Except as provided in Section III (Exemptions), No person shall sell, offer to sell, or display for sale any coal tar sealant product or high-PAH sealant product within the Town of Gibraltar.
- (c) Any person who sells any other pavement sealant products shall prominently display, in the area where such pavement sealant products are sold, a notice that contains the following language: “The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots and all other paved surfaces in the Town of Gibraltar is prohibited by Ordinance 2023-03. PAHs are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high-PAH sealant products are a major source of PAHs that can travel into homes, buildings, and soils, or be carried by stormwater and other run off into the water resource of the Town of Gibraltar.
- (d) No person shall allow a coal tar sealant product or other high-PAH sealant product to be applied upon property that is under that person’s ownership or control.
- (e) No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar

sealant product or high-PAH sealant product to any driveway, parking lot, or other surface within the Town of Gibraltar.

- (f) No commercial 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 sealant product or high-PAH sealant product to any driveway, parking lot, or other surface within the Town of Gibraltar.

III. Exemptions:

- (a) The person is conducting bona fide research concerning the effects of a coal tar sealant product or high-PAH sealant product on the environment; the use of the coal tar product or high-PAH sealant product is required for said research; and the Town Board of the Town of Gibraltar determines that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health; or
- (b) If the person does not intent to apply the sealant within municipal boundaries.

IV. Penalty:

- (a) Any person who violates this ordinance by applying a coal tar sealant product or high-PAH sealant product at property within the Town of Gibraltar shall be subject to a forfeiture of not less than \$50, nor more than \$500, together with costs of prosecution. Failure to make payment of such forfeiture and costs of prosecution shall subject the individual to imprisonment in the County Jail until said forfeiture is paid, but not to exceed 30 days.
- (b) Each day the violation occurs or continues is a separate offense and subject to an additional fine.
- (c) Any commercial sealant product applicator, residential or commercial developer, industrial or commercial owner, or any other person, other than a person identified under sub (a) above, who violates this ordinance, shall be subject to a fine of not less than \$1,000 nor more than \$10,000. Each incidence of a violation shall constitute a separate offense. Failure to make payment of such forfeiture and costs of prosecution shall subject the individual to imprisonment in the County Jail until said forfeiture is paid, but not to exceed 30 days.

V. Enforcement:

- (a) Violations of this ordinance shall be by citation.
- (b) Schedule of Deposits. Deposits shall be made in cash, money orders, or certified check to the Clerk of Door County Circuit Court, who shall provide a receipt to the other office and the amount of the forfeiture schedule shall be stated above or such amount that the Circuit Court of Door County hereafter affixes.

BE IT RESOLVED that the foregoing ordinance amendment be adopted and shall become effective on passage and publication.

PASSED, APPROVED AND ADOPTED by the Town of Gibraltar on the 7th day of June 2023

Steve Sohns, Town Chairperson

John Selenica, Town Supervisor

Thomas Birmingham, Town Supervisor

Jayson Merkel, Town Supervisor

Vinni Chomeau, Town Supervisor

Attest:

Kelly Murre, Town Clerk