

**PROPOSED SECOND SUBSTITUTE TO FILE #23-5769 (Issued on:3/8/2024)**

**This substitute replaces all previous substitutes**

**(Environment and Sustainability Committee 3/12/2024)**

**Sponsored by:** MAGGIE TREVOR, Cook County Board of Commissioners

**PROPOSED ORDINANCE**

**COAL TAR SEALANT BAN**

**BE IT ORDAINED**, by the Cook County Board of Commissioners, that CHAPTER 30, ENVIRONMENT, ARTICLE VIII, COAL TAR SEALANT BAN, Sections 30-973 through 30-976 of the Cook County Code is hereby enacted as Follows:

**Sec. 30-973 - Title, purpose, and scope.**

(a) This Article shall be known and may be cited as the Coal Tar Sealant Ban and shall be liberally construed and applied to promote its purposes and policies.

(b) The purpose of this Article, and the policy of the County, is to ban the retail sale of coal tar sealant products and the application and/or use of coal tar sealant products in Cook County.

(c) The Ordinance is subject to the home rule as established by the Constitution of the State of Illinois Article VII, Section 6, Powers of Home Rule Units. This article bans the sale and commercial application of Coal Tar Sealants within the boundaries of Cook County as defined in Section 30-3.

**Sec. 30-974 - Definitions**

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Coal tar* means a viscous substance obtained by the destructive distillation of coal and containing levels of polycyclic aromatic hydrocarbons in excess of 10,000 milligrams per kilogram. "Coal tar" includes, but is not limited to coal tar, coal tar pitch, coal tar derivatives, coal tar pitch volatiles, coal tar mixtures or any variation assigned to the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

*Coal tar sealant product* means a surface applied sealant product that contains coal tar or coal tar pitch volatiles, or a product labelled as such.

*Commercial Entity* means a business, partnership, firm, trust, corporation, or limited liability company.

**Sec. 30-975 - Coal Tar Sealant Ban**

(a) No commercial entity shall sell at retail in Cook County coal tar sealant products for application and/or use on asphalt-paved surfaces in Cook County.

(b) Commercial entities may not apply and/or use a coal tar sealant product on an asphalt-paved surface in Cook County.

**Sec. 30-976 - Penalties.**

Any person that violates this Article or the herein is subject to the penalties set out in Section 30-131.

**Effective date:** This ordinance shall be in effect 180 days from the date of its passage.

**BE IT FURTHER ORDAINED**, by the Cook County Board of Commissioners, that CHAPTER 30, ENVIRONMENT, ARTICLE II. ADMINISTRATION AND ENFORCEMENT, DIVISION 1. DEPARTMENT OF ENVIRONMENT AND SUSTAINABILITY, Section 30-131 of the Cook County Code is hereby amended as Follows:

**Sec. 30-131. Penalties, cost recovery, and remedies.**

- (a) Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of, any of the provisions of this chapter shall be subject to fines of not less than any of the values detailed in the following table but not more than \$10,000.00.
- (b) A violation of any provision of this chapter not listed in the following table is subject to fines not less than \$300.00 and not more than \$10,000.00.
- (c) A separate and distinct offense shall be regarded as committed each day on which such person continues or permits any such violation, or failure to comply exists after notification thereof.
- (d) In determining the amount of the fine the following factors shall be taken into consideration:
  - (1) The gravity of the offense;
  - (2) The respondent's past history with respect to compliance with the provisions of this chapter;
  - (3) The respondent's financial situation;
  - (4) The extent of respondent's cooperation;
  - (5) The likelihood that the respondent will violate the provisions of this chapter in the future, unless deterred from doing so by the imposition of the maximum fine; and
  - (6) Any other factors relevant to the circumstances relating to the violation.
- (e) In addition to such fines and penalties, any privilege accorded to such person, including, but not limited to, permits and certificates issued pursuant to this chapter may be denied, suspended, and/or revoked, such person may be required to pay fees owed to the Department, and such person may be required to cease and/or abate public nuisance, in accordance with section 30-136 of this chapter.

Code Section	Violation	Minimum Fine (\$)
30-136(b)(i)	Causing, creating or contributing to any activity or condition that poses an imminent and substantial risk to the public health or safety or to the environment	5,000.00
30-136(b)(ii)	Operating a facility or conducting an activity without a required permit or other written authorization issued by the Director	500.00
30-136(b)(iii)	Violating any of the provisions of this chapter or the rules and regulations promulgated thereunder or the conditions of any privilege, including, but not limited to, permits and certificates, issued thereunder	500.00
30-446(b)	Failure to remove or retrofit noncompliant equipment or vehicle within 24 hours (per day for each piece of equipment/vehicle)	5,000.00

30-446(c)	False statement or claim with respect to solicitation for public works contract or removal or retrofit of noncompliant equipment or vehicle (per false statement or claim)	10,000.00
30-546	Failure to maintain ACM	500.00
30-549(a)	Release of ACM in the air	5,000.00
30-549(a)(3)	Workers without valid IDPH ACM Abatement license	1,000.00
30-549(a)	Lack of vacuumed or sealing ACM waste	3,000.00
30-549(a)	Lack of enclosure if required	5,000.00
30-549(a)	Structure not adequately wet	1,000.00
30-549(a)(1)	ACM dropped without dust-tight method	3,000.00
30-552	ACM not contained for transportation	5,000.00
30-561	No valid demolition permit	1,000.00
30-548	No valid ACM abatement permit	1,000.00
30-121	Noxious odors	500.00
30-547	No valid Asbestos Removal Contractor Certificate of Registration	1,000.00
30-773(c)	Late filing of the required Demolition Debris Diversion report	500.00
30-773	Failing to submit complete and required documentation, which includes submitting inaccurate, incomplete, or inconsistent information	1,000.00
30-773	Failing to divert demolition debris as required	5,000.00
<u>30-975(a)</u>	<u>Retail sales of coal tar sealant products for application and/or use on an asphalt-paved surface are prohibited in Cook County</u>	<u>300.00 but no greater than \$1,000.00</u>
<u>30-975(b)</u>	<u>Commercial entity application and/or use of a coal tar sealant product on an asphalt-paved surface in Cook County</u>	<u>300.00 but no greater than \$1,000.00</u>

**Effective date:** This ordinance shall be in effect 120 days from the date of its passage