



**Item From Council  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.:** 70  
**AGENDA DATE:** Thu 11/17/2005  
**PAGE:** 1 of 1

**Item From Council**

**Posting Language:** Presentation from staff and approval of an ordinance amending the City Code to add a new Chapter 6-6 banning the use and sale of Coal Tar Pavement products

**Proposed meeting date:** THU 11/17/2005

**Sponsor:** Council Member Lee Leffingwell

**Co-sponsor 1:** Mayor Will Wynn

**Co-sponsor 2:** Council Member Brewster  
McCracken

**Date by which the City Manager is requested to report back to Council:**

**Draft Resolution/Ordinance attached:**

---

## **ORDINANCE NO.**

### **AN ORDINANCE AMENDING THE CITY CODE TO ADD A NEW CHAPTER 6-6 RELATING TO COAL TAR PAVEMENT PRODUCTS, CREATING OFFENSES, AND PROVIDING PENALTIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Title 6 of the City Code is amended to add a new Chapter 6-6 to read

#### **CHAPTER 6-6. COAL TAR PAVEMENT PRODUCTS.**

##### **§ 6-6-1 DEFINITIONS.**

In this chapter.

(1) COAL TAR PAVEMENT PRODUCT means a material that contains coal tar and is for use on an asphalt or concrete surface, including a driveway or parking area

(2) DIRECTOR means the director of the Watershed Protection and Development Review Department

##### **§ 6-6-2 USE OF COAL TAR PAVEMENT PRODUCTS PROHIBITED.**

(A) Except as provided in Section 6-6-4 (*Exemptions*), a person may not use a coal tar pavement product within the City's planning jurisdiction

(B) A person who owns property on which a coal tar pavement product is used is presumed to have used a coal tar pavement product in violation of this section

##### **§ 6-6-3 SALE OF COAL TAR PAVEMENT PRODUCTS RESTRICTED.**

Except as provided in Section 6-6-4 (*Exemptions*), a person may not sell a coal tar pavement product within the City's planning jurisdiction, unless

(1) the sale is to a person who intends to use the coal tar pavement product outside the City's planning jurisdiction, and

(2) the seller requires the purchaser to complete and sign a form provided by the director that includes

- (a) the name, address, and phone number of the purchaser,
- (b) the date of the purchase,
- (c) the quantity of coal tar pavement product purchased,
- (d) a statement that the coal tar pavement product will not be used within the City's planning jurisdiction, and
- (e) an affirmation by the purchaser that the information on the form is correct, and

(3) the seller retains the completed form for a period of not less than three years and allows the director to inspect or copy the form upon request

#### **§ 6-6-4 EXEMPTIONS.**

The director may exempt a person from a requirement of this chapter if the director determines that

- (1) the person is researching the effect of a coal tar pavement product on the environment or is developing an alternative technology, and the use of a coal tar pavement product is required for the research or development, or
- (2) a viable alternative to a coal tar pavement product is not available for the intended use

#### **§ 6-6-5 OFFENSE; PENALTY.**

(A) A person who violates this chapter commits a Class C misdemeanor punishable by

- (1) a fine not to exceed \$500, or
- (2) if the person acts with criminal negligence, a fine not to exceed \$2,000

(B) Each day that a violation occurs or continues is a separate offense

(C) Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence

**PART 2.** This ordinance takes effect on \_\_\_\_\_, 2005

**PASSED AND APPROVED**

\_\_\_\_\_, 2005      §  
                                 §  
                                 § \_\_\_\_\_  
   Will Wynn  
   Mayor

**APPROVED:** \_\_\_\_\_  
                         David Allan Smith  
                         City Attorney

**ATTEST:** \_\_\_\_\_  
                         Shirley A. Brown  
                         City Clerk