ORDINANCE NO. 20051117-070

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 November 28, 2005.

PASSED AND APPROVED

November 17, 2005

Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Brown
City Clerk
ORDINANCE NO. 20051201-016

AN ORDINANCE AMENDING ORDINANCE NO. 20051117-070 TO CORRECT A TYPOGRAPHICAL ERROR RELATED TO THE EFFECTIVE DATE.

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

PART 1. Part 2 of Ordinance No. 20051117-070 is amended to read:

This ordinance takes effect on January 1, 2006.

PART 2. This ordinance takes effect on December 12, 2005.

PASSED AND APPROVED

December 1, 2005

Will Wynn
Mayor

David Allan Smith
City Attorney

Shirley A. Brown
City Clerk

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