

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

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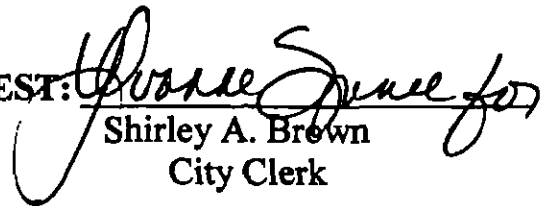
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Brown
City Clerk