

ORDINANCE NO. 20191017-022

AN ORDINANCE AMENDING CITY CODE CHAPTER 6-6 RELATING TO COAL TAR PAVEMENT PRODUCTS TO REGULATE ADDITIONAL HIGH POLYCYCLIC AROMATIC HYDROCARBON PRODUCTS AND CREATING OFFENSES FOR THE USE AND SALE OF THESE ADDITIONAL PRODUCTS.

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

PART 1. The title of City Code Chapter 6-6 (*Coal Tar Pavement Products*) is amended to read as follows:

6-6. [~~COAL TAR~~] PAVEMENT PRODUCTS

PART 2. City Code Section 6-6-1 (*Definitions*) is amended to read as follows:

- (1) [~~COAL TAR PAVEMENT PRODUCT~~] means a material that contains coal tar, coal tar pitch volatiles, RT-12, refined tar, or a variation of those substances assigned the chemical abstracts service (CAS) numbers 65996-28-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 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.
- (2) HIGH PAH PAVEMENT PRODUCT means a material that contains more than 0.1% (1000 ppm) polycyclic aromatic hydrocarbons (PAH) by weight; may contain coal tar, coal tar pitch volatiles, RT-12, refined tar, steam-cracked petroleum residues, heavy pyrolysis oil, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, ethylene cracker residue, or a variation of those substances assigned the chemical abstracts service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, 8007-45-2, 64742-90-1, or 69013-21-4; and is for use on an asphalt or concrete surface, including a driveway, playground, or parking area.

PART 3. City Code Section 6-6-2 (*Use of Coal Tar Pavement Products Prohibited*) is amended to read as follows:

§ 6-6-2 USE OF HIGH PAH [~~COAL TAR~~] PAVEMENT PRODUCTS PROHIBITED.

- (A) Except as provided in Section 6-6-4 (*Exemptions*), a person may not use a high PAH [~~coal-tar~~] pavement product within the City's planning jurisdiction.
- (B) A person who owns property on which a high PAH [~~coal-tar~~] pavement product is used is presumed to have used a high PAH [~~coal-tar~~] pavement product in violation of this section.

PART 4. City Code Section 6-6-3 (*Sale of Coal Tar Pavement Products Restricted*) is amended to read as follows:

§ 6-6-3 SALE OF HIGH PAH [~~COAL-TAR~~] PAVEMENT PRODUCTS RESTRICTED.

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

- (1) the sale is to a person who intends to use the high PAH [~~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 high PAH [~~coal-tar~~] pavement product purchased;
 - (d) a statement that the high PAH [~~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.

PART 5. City Code Section 6-6-4 (*Exemptions*) is amended to read as follows:

§ 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 high PAH [~~coal-tar~~] pavement product on the environment or is developing an alternative technology, and

the use of a high PAH [~~coal-tar~~] pavement product is required for the research or development; or

- (2) a viable alternative to a high PAH [~~coal-tar~~] pavement product is not available for the intended use.

PART 6. This ordinance takes effect on January 1, 2020.

PASSED AND APPROVED


_____, October 17, 2019

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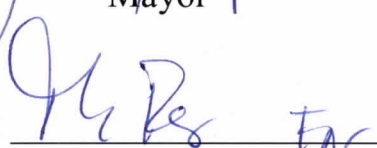
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk