

**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

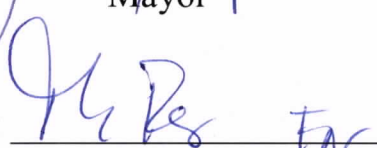
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Steve Adler  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
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Jannette S. Goodall  
City Clerk