



The City of San Antonio is seeking public input on a proposed policy that would ban the use and sale of coal-tar-based sealant within the city limits from **January 13, 2016-May 20, 2016**. Comments are accepted by letter, phone call, voicemail or e-mail directed to the City of San Antonio [Office of Sustainability](#). Coal tar is the black liquid sprayed or painted on many parking lots, driveways, and playgrounds and according to the US Geological Survey (USGS) they emit polycyclic aromatic hydrocarbons, which negatively impact waterways and impact human health.

Rationale: Scientific studies on the use of parking lot and driveway sealers have demonstrated a relationship between storm water runoff and certain health and environmental concerns. According to the US Geological Survey, coal-tar-based pavement sealant were found to be the largest source of polycyclic aromatic hydrocarbons (PAHs) found in 40 urban lakes. The U.S. EPA has published that polycyclic aromatic hydrocarbons (PAH) concentrations were 65 times higher in runoff from coal-tar seal-coated parking lots versus unsealed parking lots (USGS, [Mahler et al. 2005](#)).

Some governments have taken action on use of coal-tar-based sealcoat. Fifteen municipalities and two counties in four states (Minnesota, New York, Texas, and Wisconsin), the District of Columbia, and the state of Washington and Minnesota all have enacted some type of ban, affecting almost 10.4 million people. Several national and regional hardware and home-improvement retailers have voluntarily ceased selling coal-tar-based driveway-sealer products. Additional information is available at the City of San Antonio's "[Remember the River](#)" website.

Timeline and Milestones:

City staff is implementing a Phase One Communications and Engagement Strategy from January through Friday, May 20, 2016 for stakeholders such as public/private property owners and developers, manufacturing and industrial sites, the pavement industry and environmental/water quality advocacy organizations. Based on feedback from stakeholders City staff will submit a subsequent recommendation to City Council in June 2016.

1. Research – September 2014-September 2015
2. Key Stakeholders Outreach – January 2016-June 2016
3. Draft Ordinance – January 2016
4. Develop Enforcement & Operations Plan - January-May 2016
5. (if Council approved) Final Approved Ordinance – June 2016
6. (if Council approved) Public Education will begin – June 2016
7. (if Council approved) Enforcement will begin – Six months after Council approval to allow the industry to adjust to the new policy

Supplemental Information:

On November 18, 2014, District 8 City Councilman Ron Nirenberg issued a Council Consideration Request (CCR) requesting staff to consider a prohibition on coal tar-based sealants during the development of the comprehensive water study. The consultant provided an overview of the issue and summary of literature on the subject in addition to legislative responses by other municipalities and states. The related press release outlining the release of the Council

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Consideration Request indicated that the Councilman has obtained industry support from the Association of General Contractors.

The CCR memo is in response to a Citizens Environmental Advisory Committee (CEAC) recommendation. The recommendation, dated June 6, 2014, informed City Council members on the negative impacts of coal-tar sealants. The CEAC is an eleven-member committee of City Council appointees.

Alternatives:

Use of asphalt sealants or latex modified asphalt sealants if sealing an asphalt surface is necessary. Asphalt or latex modified asphalt sealants contain polycyclic aromatic hydrocarbons concentrations of about 5 percent, whereas coal tar based-sealants contain between 20 to 35 percent polycyclic aromatic hydrocarbons. Good asphalt sealcoat emulsions are very affordable, will still provide a black appearance for 1-2 years, and can provide surface protection for 2-4 years if properly applied.

Other alternatives such as Gilsonite®, acrylic and agricultural oil-based seals contain few or no polycyclic aromatic hydrocarbons, but they tend to be higher-priced and they have less of a performance track record than asphalt seals. In addition, new construction can include creating parking lots with surfaces other than asphalt, such as concrete or permeable pavement. The upfront costs for installing concrete are higher than those for installing asphalt parking lots. Long-term maintenance is likely lower, however, since concrete parking lots do not require sealants and have a longer lifespan. The lighter surface of concrete also provides a benefit of reducing the urban heat island effect by absorbing less solar energy than darker surfaces (EPA 2008). Pervious pavement, including interlocking pavers and permeable concrete, are alternatives to concrete and asphalt that reduce storm water runoff and pollution.

PROPOSED ORDINANCE LANGUAGE

AN ORDINANCE AMENDING CHAPTER 34 OF THE CITY CODE TO ENFORCE THE PROHIBITION ON THE USE AND SALE OF COAL TAR SEALANT PAVEMENT PRODUCTS WITHIN THE CITY OF SAN ANTONIO, TEXAS

SECTION 1. PURPOSE.

Coal-tar based seal coat is a black, viscous liquid sprayed or painted on asphalt pavement, such as parking lots, driveways and playgrounds

A US Department of Interior study conducted by the US Geological Survey found that coal-tar sealants contain carcinogens that are harmful to humans through skin contact and through inhalation of wind-blown particles and fumes that volatilize. Additional scientific studies on the use of parking lot and driveway sealers have demonstrated a relationship between storm water runoff and certain health and environmental concerns. Therefore, many municipalities across the country have already banned coal-tar based seal coat.

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The City of San Antonio understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community.

SECTION 2. DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ASPHALT BASED SEALER. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces and does contain polycyclic aromatic hydrocarbons .

COAL TAR. A byproduct of the process used to manufacture steel.

COAL TAR SEALANT PAVEMENT PRODUCT. A material that contains coal-tar and is for use on asphalt or concrete surfaces including a driveway or parking lot. These surface applied sealing product contain coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

CITY. The City of San Antonio.

Polycyclic aromatic hydrocarbons . Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

DIRECTOR. Means the director of the Transportation and Capital Improvements Department

SECTION 3. PROHIBITIONS.

- A. No person shall apply a coal tar sealant product on asphalt paved surfaces within the planning jurisdiction of the City of San Antonio.
- B. No person shall sell a coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces within the City of San Antonio.
- C. No person shall allow a coal tar sealant product to be applied upon property that is under that person's ownership or control.
- D. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product to any driveway, parking lot, or other surface within the City.

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- E. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product to any driveway, parking lot, or other surface within the City.

SECTION 4. EXEMPTION.

A. Upon the express written approval from the City of San Antonio, a person who conducts research on the environmental effects of coal tar sealant product or where the use of coal tar sealant product is necessary in the development of an alternative technology shall be exempt from the prohibitions provided in Section 3.

B. A viable alternative to a coal tar pavement product is not available for the intended use.

C. The sale is to a person who intends to use the coal-tar pavement product outside the City's planning jurisdiction;

C1. 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 quantify 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

C2. 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.

SECTION 5. ASPHALT BASED SEALCOAT PRODUCTS.

The provisions of this ordinance shall only apply to coal-tar sealant products in the City and shall not affect the use of asphalt based sealer products within the City.

SECTION 6. PENALTY.

A. Any person convicted of violating any provision of this ordinance is guilty of a Class C misdemeanor and shall be punished by a fine not to exceed \$500.00 or if the person acts with criminal negligence, a fine not to exceed \$2000.00.

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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.

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