

Checklist for Municipalities to Develop Restrictions on Coal Tar-based Sealcoat

1. Determine the predominant sealant type used in your area is. A 2010 online poll of nearly 1,000 applicators generally found that 3 out of 4 in the Great Lakes region prefer to use coal tar sealants. On the West Coast the opposite is true.
2. Ask your municipal lawyer if your unit of government has the authority to ban anything. Perhaps your city may have passed a ban of phosphorus, plastic bags, vicious dog breeds, or smoking in restaurants. This most likely would be precedent setting for you, but it is best to check with the lawyers. In one instance (North Carolina), it appears that state law prohibits these actions on a local level.
3. Collect information to support the restrictions.
 - a. Factsheets and other information on the impacts of coal tar-based sealcoat can be found at:
 - i. USGS website <http://pubs.usgs.gov/fs/2005/3147/>
 - ii. MPCA website <http://www.pca.state.mn.us/index.php/view-document.html?gid=11857>
 - iii. City of Austin website
http://www.ci.austin.tx.us/watershed/downloads/BROCHURE_COALTAR.PDF
<http://www.ci.austin.tx.us/watershed/downloads/PAX.PDF>
 - iv. Coal Tar Free America blog <http://coaltarfreeamerica.blogspot.com/>
 - v. Great Lakes and St. Lawrence Cities Initiative website (if we decide to post them there)
 - b. For technical support, you may contact the MPCA (we need to contact Dale Thompson and Judy Crane to see if they would be willing to serve this role) or the City of Austin for ban implementation suggestions.
4. Draft the ordinance.
 - a. The ordinance can be drafted using Minnesota's model ordinance (available on MPCA's website) or by tailoring ordinances that have been enacted by other municipalities. For copies of the bans enacted in Austin, TX, Dane County, WI, and Washington, DC, see Appendix F of a report by MPCA on Contamination of Stormwater Pond Sediments by Polycyclic Aromatic Hydrocarbons (PAHs) (available at <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/municipal-stormwater/restriction-on-coal-tar-based-sealants.html>).
 - b. Modify the draft ordinance or previous legislation to meet your city's circumstances and requirements.
5. Review the draft ordinance with a city attorney to determine which provisions are suited to the city's circumstances and ensure that they conform to state law. Also ensure that the ordinance complies with home rule charters, if applicable.
6. Hold a public comment period to provide an opportunity for commercial sealer companies, city residents, and other interested persons to provide input.
7. Present the ordinance to City Council or other municipal legislative body for approval.
8. Provide a copy of the ordinance to the county law library or a designated depository (required by Minnesota Statute § 415.021).
9. Conduct outreach or compliance promotion activities.