

**CITY OF SHOREVIEW
AGENDA
CITY COUNCIL WORKSHOP
January 23, 2012
7:00 P.M.**

1. ROLL CALL
2. REVIEW OF PROPOSED ENVIRONMENTAL REGULATIONS
AND EMERALD ASH BORER MANAGEMENT PLAN
3. DISCUSSION REGARDING TEMPORARY SIGN CODE
REGULATIONS AND ENFORCEMENT
4. ADJOURNMENT

TO: Mayor, City Council, City Manager
FROM: Jessica Schaum, Environmental Officer
DATE: January 20rd, 2012
SUBJECT: Environmental Text Amendments and the Emerald Ash Borer Management Plan

INTRODUCTION

Several text amendments and two new ordinances are proposed to address both water quality issues and shade tree management in the City's Development Code. In addition to the proposed amendments to the tree diseases ordinance, an Emerald Ash Borer Management Plan has been drafted to help mitigate Emerald Ash Borer's disruption to the urban forest in a proactive and balanced approach.

Staff is bringing these items to the Council in a draft format to receive input and feedback. The draft code amendments will be reviewed by both the Planning Commission and Environmental Quality Committee later this month; and the EQC will also be reviewing the draft EAB Management Plan. The City Attorney is also currently reviewing the proposed Code amendments.

BACKGROUND

Forestry

Amendments to the Vegetation and Woodlands section of the City's Code are in response to the Emerald Ash Borer's (EAB) arrival and to update provisions of current text. The diseased tree program needs to expand to include the mitigation of EAB along with traditional forestry pests and diseases like Oak Wilt and Dutch Elm Disease which are currently in Code. In conjunction with this text amendment, a draft Emerald Ash Borer Management Plan has also been prepared. The Plan as drafted provides a balanced approach to slowing down the destruction of EAB by removing some declining ash trees on public property and identifying significant trees the City wishes to treat and maintain. As currently drafted, the Plan allows residents to chemically treat ash trees by a licensed tree contractor. The Plan also includes a reforestation component.

Water Quality

Other proposed Code amendments include two new sections to further protect water quality – coal tar-based sealant requirements and illicit discharge, detection, and elimination. The City Council has expressed interest in banning coal tar-based sealants to prevent contamination and costly cleanup of stormwater ponds. Coal tar-based sealants are typically used to resurface asphalt driveways and parking lot areas. Scientific studies have identified a possible relationship between stormwater runoff and certain health and environmental concerns. Coal tar-based sealant flakes off with use and over time the chemicals are carried to waterways. The proposed Code amendment would prohibit the use of coal tar-based sealants in Shoreview. Several other metropolitan area cities have also adopted this regulation.

As part of the Minnesota Pollution Control Agency's National Pollutant Discharge Elimination System (NPDES) requirements, the City must adopt an illicit discharge ordinance. Adopting this ordinance is currently listed in our Implementation Plan portion of the City's Surface Water Management Plan. The proposed text fulfills the NPDES requirement and establishes violations for any person illicitly discharging into the City's stormwater (MS4) system.

Staff is also recommending a Code amendment for soil stabilization or erosion control to tighten up the timeframe for when vegetation needs to be established. Current Development Code regulations allow 6 months to establish permanent vegetation. The proposed change is to reduce that time to two weeks. This amendment will help prevent excess sediment from running off the disturbed land area into the City's stormwater system. The proposed regulations also establish a May 15th deadline for establishing permanent vegetation for development completed during the winter months.

SUMMARY

Staff is seeking Council feedback on these proposed Code amendments and the EAB Management Plan prior to review by the EQC and Planning Commission. Based on the input from the Council, we anticipate that formal action from the Council will occur in March.

Attachments:

Forestry

Tree Diseases - ordinance revisions draft

EAB Management Plan – draft

Water Quality

Soil stabilization - ordinance revision draft

Coal tar-based requirements – new ordinance draft

United States Geological Survey Fact Sheet

Illicit discharge – new ordinance draft

Attachment B: Forestry

Chapter 209 Environmental Standards

209.050 Vegetation & Woodlands.

(C) Shade Tree Management. ~~Tree Diseases~~

(1) Declaration of Policy and Intent.

(a) Policy. The City Council has determined that the health of ~~elm and oak~~ shade trees within the City is threatened by fatal tree diseases and Plant Pests such ~~commonly known~~ as Dutch Elm and Oak Wilt diseases, the Emerald Ash Borer, and other invasive species or forest pests. It has further determined that the loss of ~~elm and oak~~ shade trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City Council to control and prevent the spread of these diseases and other epidemic diseases or Plant Pests of shade trees, and this ordinance is enacted for that purpose.

(b) Intent. It is the intention of the City Council to implement a local pest control program and a shade tree disease control program pursuant to Minn. Stat. §§ 89.001, 89.01 and 89.51-.64 ~~Minnesota Statutes Section 18.021 through 18.022 as amended,~~ and a shade tree disease control program pursuant to Minnesota Statutes Section 18.023 as amended and the regulations of the Commissioner of Agriculture. ~~The programs are directed specifically at the control and elimination of the Dutch elm disease fungus, elm bark beetles and the oak wilt fungus, and are undertaken at the recommendation of the Commissioner of Agriculture for the State of Minnesota. The City Manager shall act as coordinator between the Commissioner of Agriculture and the City Council in the conduct of these programs.~~

(2) Inspection and Investigation.

(a) Annual Inspection. The City Manager shall inspect all public and private places which might harbor Plant Pests, as defined in Minnesota Statutes Section 18G.02 Subd. 24, as hereafter amended, as often as practicable to determine whether a public nuisance exists thereon. He/she shall investigate all reported incidents of infection or infestation by the Dutch Elm fungus, elm bark beetles, Oak Wilt fungus, Emerald Ash Borer, or any other epidemic diseases or Plant Pests of shade trees.

(b) Entry on Public and Private Property Places. The City Manager may enter upon all public and private places at any reasonable time for the

purpose of carrying out any of the duties assigned herein. The term "private property" ~~place~~ means ~~every place except the private home.~~ means property not owned by the City, County, State or other governing agency.

- (c) Diagnosis. The City Manager shall identify diseased trees in a manner consistent with Minnesota Department of Agriculture guidelines, including but not limited to visual inspection, branch removal, and bark shaving. Laboratory confirmation by the Minnesota Department of Agriculture other relevant state agency will be used when it is deemed necessary by the City Manager. ~~The City Manager or his/her designee shall, upon finding conditions indicating Dutch Elm or Oak Wilt infestation, or other epidemic diseases of shade trees, immediately send appropriate specimens or samples to the Commissioner of Agriculture or to any qualified laboratory for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided herein, no action to remove infected trees or wood shall be taken until there has been a positive diagnosis.~~

(3) Shade Tree Nuisances Declared. Pursuant to Section 210, Nuisance, of the Municipal Code, the following are declared public nuisances within the City.

- (a) Any living or standing tree(s) infected to any degree with a shade tree disease or Plant Pest.
- (b) Any logs, branches, stumps, or other parts of any dead or dying tree so infected unless such parts have been fully burned or treated under the direction of the City Manager.
- (c) Any standing dead trees or limbs on public or private property which may threaten human health or property.

(4) Abatement of Nuisance. Said nuisance shall be abated in accordance with Section 210.020, Abatement Procedure.

- (3) Transporting Elm Wood Prohibited. It is unlawful for any person to transport within the City any bark bearing elm or oak wood without having obtained a permit from the City Manager or his/her designee. The City Manager or his/her designee shall grant such permits only when the purposes of this code will be served thereby.

(5) Transporting Diseased Wood. The transportation of nuisance trees and firewood as defined under this chapter will be confined in accordance with the quarantine area(s) defined or identified by the Minnesota Department of Agriculture. Loads must be properly secured so that twigs, branches and other debris are not lost while in route.

(6) ~~(4)~~ Interference Prohibited. No person shall prevent, delay or interfere with the City Manager while they are engaged in the performance of duties set forth in this chapter.

(7) Recovery of Cost. All costs associated with the abatement of said nuisance shall be recovered in accordance with Section 210.030, Recovery of Cost.

210.010(B) Nuisance: Amend to include reference to diseased trees:

(20) All trees, firewood, or stumps with bark intact that are infected or infested by a shade tree disease or Plant Pest on public or private property.

(21) ~~(20)~~ Any other health or safety nuisance as declared by the City Council.

Emerald Ash Borer Management Plan

PURPOSE

By implementing the provisions of this management plan, the City is attempting to mitigate the disruption to its urban forest caused by the infestation of the Emerald Ash Borer (EAB). Taking a proactive approach to the potential infestation enables the City to address both public and private impacts in an efficient and effective manner.

The City will attempt to distribute costs associated with the EAB over a manageable time period, and lessen the economic and social impact that an extensive loss of ash trees would have on the quality of life in our community.

In establishing this management plan, the City considered the following factors:

- EAB was discovered in St. Paul and Falcon Heights in 2009, and Shoreview in summer of 2011.
- Being proactive will allow the City to have greater control over the situation and minimize and better manage the impact and costs of EAB.
- Removal of diseased or declining ash trees will help prevent the more rapid spread and impacts of EAB in the community.
- There are optional chemical treatments available for both public and private ash trees which may assist in controlling the EAB over time.
- Reforesting the City with native tree species will increase the diversity and sustainability of the forest.

EMERALD ASH BORER BACKGROUND: THE PROBLEM

Agrilus planipennis, commonly known as an emerald ash borer (EAB) has a natural range of eastern Russia, northern China, Japan and Korea. In the past decade, the exotic beetle found its way to the United States.

The EAB is a bright green, metallic beetle with an elongated, slender body measuring 1/2 inch long. The adult beetles nibble on ash foliage, but cause little damage to leaves. Trees become infested when adult beetles lay eggs on the bark, which hatch into larvae that bore into the tree. The larvae tunnel in the phloem layer (between bark and wood) and disrupt the movement of water and nutrients, causing eventual death of the tree.

The EAB was first discovered in Michigan in July 2002. It is suspected that the EAB arrived on solid wood packing material shipped from its native Asia. Without any natural predators or controls in North America the insect has spread to 14 states and two Canadian provinces. Millions of ash trees have been killed with some cities reporting complete loss of all ash trees within 5 years of the EAB becoming established. There has been no stopping the devastation to the urban forest, though millions of dollars have been spent on prevention methods. The most current research shows that early sanitation efforts in Minnesota have helped slow the spread of EAB, but new infestation sites are being reported every growing season.

Forestry

Emerald Ash Borer adults can fly at least half mile from the tree when they emerge. However, new infestations are most often created when people transport infested nursery ash trees, logs or firewood into uninfested areas. Shipments of ash trees and transportation of firewood has been regulated by the state to reduce the spread of EAB. Ramsey County is designated as a quarantine area, and transportation of ash wood outside of the County is prohibited. The Minnesota Department of Agriculture is responsible for quarantine enforcement and penalties.

Signs of EAB include:

- Splitting bark and or small “D” shaped exit holes where beetles emerge.
- Serpentine “S” shaped larval galleries underneath the bark.
- The presence of EAB or larvae.

Symptoms of EAB infestation include:

- General thinning of canopy and increasing dieback of the ash tree.
- Increased woodpecker activity.
- Sprouting of new growth shoots from the base of the tree.

APPLICABILITY

This plan applies throughout the City on all public properties and public right of ways. Elements of the plan will also be applied to ash trees on private properties. The City will follow similar policies that have been used in dealing with the Dutch Elm and Oak Wilt diseases, with variations in removal requirements and timing. Municipal Code Section 209.050 Shade Tree Management details specific EAB sanitation requirements.

EDUCATION AND COMMUNITY OUTREACH

Resident education and ongoing outreach communication are key components of managing the impact of the EAB, especially as more information becomes available. Continued coordinated public information dissemination to residents and the media will be administered through the City’s website, newsletters, and social media. Public meetings will be conducted as necessary. The City will maintain a list of resources for homeowners from relevant agencies; see Attachment A for current community resources.

As EAB activities occur in isolated neighborhoods, direct communication will be made by the City to advise residents on the current situation of their boulevard or privately owned trees and activity in their neighborhood.

Homeowners may treat their private trees, provided they use a licensed treatment contractor who adheres to the City’s standards to protect surface and ground water. See Attachment B for more details.

CURRENT EAB SITUATION

The EAB was discovered within the City in the summer of 2011 in the Shamrock Park area. Analysis of the infestation showed that the EAB had been present for 3-4 years, which is consistent with the insect's path of destruction. Symptoms are slow to appear and once EAB is actually found, it is estimated that it has already been present for 3-5 years. It is estimated that more than 10 percent of Shoreview's urban forest is composed of ash trees based on recent Minnesota Department of Natural Resources survey.¹

MITIGATION POLICIES

Although it is impossible to stop the spread of invasive species like the EAB, the City of Shoreview's EAB Management Plan is created to lessen the impact of the EAB on the City's landscape. The City's mitigation of EAB will be similar to its policy and intent of Dutch Elm and Oak Wilt diseases, which attempt to control and prevent the spread of these diseases.

In an effort to mitigate EAB, the City will take the following actions:

1. **Removal of EAB infested trees:** The City will update its diseased tree ordinance to require the removal of both public and private ash trees infested by the EAB to prevent the spread of the disease. This ordinance will allow the City to enter private property for inspection, order the removal of diseased trees, and abate the nuisance upon non-compliance of property owners.
2. **Preemptive removal of declining ash trees:** The City will begin some preemptive removal of declining ash trees on public property, even when EAB has not yet been identified. These ash trees could be located within City parks or in boulevard areas. The reasons for this ash reduction include:
 - a. Removing declining trees before they are infested with EAB;
 - b. Allowing for reforestation with other species of trees; and
 - c. Spreading the cost of tree removal over a longer period of time.

These tree removals will generally be completed by City crews or contractors in late fall and winter months as time and work schedules permit. The most critical period for movement of confirmed EAB ash trees is June and July. This is the period when adult beetles emerge from trees, begin feeding on foliage, and move to more trees to lay their eggs. During this time it is best to leave these trees standing and not chance the spread of EAB by transporting beetle-infested wood to other areas.

3. **Chemical treatment option:** There are currently two methods of tree treatments being offered in the marketplace; drenching the soil with chemicals and injecting the

¹ Minnesota Department of Natural Resources 2010 Community Tree Survey. Survey of front yard and street trees in residential and commercial sampling areas. Ash trees represented 10.5% of the top ten tree genera for the City of Shoreview.

chemical into the tree. The City strongly discourages the use of soil drench insecticides applied by the homeowner due to potential to pollute water and negatively impact wildlife.

The City maintains guidelines for treatment of ash trees to help control the onset of EAB and considers trunk injections a management tool to utilize on significant trees within public parks and along higher profile public right of ways, higher volume roads, and Municipal State Aid collector streets. Due to the high cost of reoccurring treatments and the long-term effects of chemical treatments on ash trees, water resources, and the environment, the City shall identify the best candidates for treatment.

The City will permit residents to use chemical treatments on either private ash trees or public ash trees in boulevard areas, given the following:

- a. Private contractors are to use **only** the approved trunk injection method.
- b. The injection treatment application must be done by City licensed tree contractor that is bonded, insured, and state licensed to apply commercial tree chemicals.
- c. The boulevard tree treatments need to be reported annually to the Environmental Officer for tracking.

*Other contractor criteria will apply, please see the City of Shoreview Emerald Ash Borer Treatment Policy (Attachment B).

4. **Reforestation:** In an effort to encourage reforestation of private properties, the City will reinstitute its annual tree sale program in 2013 that allows residents to purchase trees at wholesale prices. The program will offer a variety of tree species that are appropriate for this region.

The City will promote Ramsey County's Friends of the Parks annual tree sale, and identify resources for reforestation on public property as appropriate.

5. **Wood utilization:** The City will publicize the Minnesota Department of Agriculture's regulations for handling ash wood removal. Ramsey County is currently under a quarantine which prohibits the transportation of wood outside of the County. From September 15th to May 1st EAB-infested trees can be removed and transported only within the quarantine area, so long as they are promptly chipped to the required dimensions, less than 1"x1"x1".

Forestry

Any storm damaged ash trees during the active growth spring and summer period must be chipped within the area before transportation to kill the EAB larvae. The City will identify marshalling yards for this work as necessary.

Non-infested EAB trees can be removed from September 15th to May 1st using the normal process of transporting un-chipped wood to the Ramsey County Yard Waste Site.

6. **Monitoring and Tracking:** The City will track the spread of EAB in Shoreview and surrounding communities in conjunction with the Department of Agriculture. The City will also monitor trees that have been treated as reported by private contractors. The City will conduct a tree inventory to identify replacement and reforestation needs in the future.

SUMMARY

EAB will have a significant impact on Shoreview's landscape. The City's plan is designed to inform the public of new infestations, treatment options, removal requirements, and to provide a comprehensive proactive approach to addressing the EAB infestation.

Attachment A: Resources

The following is a list of resources for residents to review to learn about Emerald Ash Borer symptoms, firewood requirements, and insecticide options. The City will update this list as more information becomes available.

[Pest Alert-Emerald Ash Borer \(PDF\)](#)

[Do I Have EAB? \(PDF: 245 KB / 1 page\)](#)

[Ash Tree Identification \(PDF: 7.95 MB / 2 pages\)](#)

[Signs and Symptoms of EAB \(PDF\)](#)

[Map of EAB in USA \(PDF\)](#)

[Minnesota Department of Agriculture EAB Quarantine](#)

[Firewood Restrictions & Safe Handling Guidelines](#)

[Homeowner Guide to Insecticide Selection, Use and Environmental Protection](#)

[Ash Tree Waste Disposal Sites within Hennepin-Ramsey-Houston County](#)

Much of this information is available on the MN Department of Agriculture website:
<http://www.mda.state.mn.us/plants/pestmanagement/eab/eabmanual.aspx> Name

Attachment B: Emerald Ash Borer Tree Treatment Policy

The following companies have met the standards for treating property owner's ash trees for Emerald Ash Borer in the City of Shoreview:

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In order for the Contractor to be listed on the City website and this handout, the Contractor agreed to the following standards:

- 1) Contractor shall be a Licensed Tree Contractor by the City of Shoreview (Which provides proof of liability insurance and a surety bond).
- 2) Contractor shall possess a valid State of Minnesota Commercial Pesticide Applicator License A & E.
- 3) Contractor shall have a minimum of one Certified Arborist on staff.
- 4) Contractor shall treat ash trees using an approved trunk injection method and follow the approved application rates by the manufacturer and label.
- 5) Contractor shall only treat trees during the full leaf-on season: No treatment shall occur until leaves have fully emerged in the spring, and while actively growing in the fall.
- 6) Contractor shall provide the City with a list of all treated public and private trees by December 1st each year. The list will include the customer's name, property address, and a number of trees. This information will be used to assist the City in monitoring tree health and enforcing the 209.050 Shade Tree Management Ordinance. The annual report shall be submitted on the City form (attached) in paper or electronic (.pdf) form.

****Contractors will not be able to renew their Tree Contractor's License or be listed on City handout materials or website unless the treatment report is on file.****

I _____ of _____ agree to adhere to the treatment and reporting standards within the City of Shoreview and understand that my tree service license will not be renewed without submittal of an annual report to the City of Shoreview.

Signature _____ Date _____

Attachment A: Water Quality

Chapter 209 Environmental Standards

209.040 (E) Soil Stabilization.

(3) New Vegetation. For all development where land disturbance activity occurs, ~~natural vegetation is disturbed,~~ the permanent new landscaped vegetation must be established within ~~6 months~~ fourteen (14) days after work is completed from the date of certificate of occupancy issuance, or upon completion of approved project. If development is completed during winter (November 15th to April 15th, permanent vegetation shall be established by May 15st. ~~unless an~~ An extension may be is granted by the City Manager because for weather-related delays. The City Council may grant an extension if the delay is for any other reason. Temporary vegetation shall be established and maintained on the site per the approved plan until work to establish the permanent vegetation commences.

Chapter 612 Coal Tar-based Sealant Requirements

612 Coal Tar-based Sealant Requirements

612.010 Purpose and Findings. The City 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. The use of coal tar-based sealers on asphalt driveways is a common practice. However, scientific studies on the use of coal tar-based driveway sealers have identified a possible a relationship between stormwater runoff and certain health and environmental concerns. Regulation of sealer products within the City is needed in order to protect, restore, and preserve the quality of its waters.

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

- (1) Asphalt-Based Sealer. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

- (2) Coal Tar. A byproduct of the process used to refine coal.
- (3) Coal Tar-Based Sealer. A sealer material containing coal tar and which is commonly used on driveways, parking lots and other surfaces.
- (4) PAHs (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 and aquatic life.

612.030 Use of Coal Tar-based Sealer Prohibited.

(A) No person shall apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

(B) 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-based sealer to any driveway, parking lot, or other surface within the City.

(C) 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-based sealer to any driveway, parking lot, or other surface within the City.

612.040 Exemption. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in this section.

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

Illicit Discharge Detection and Elimination

Chapter 209 Environmental Standards

209.060 Storm Water Management

209.060(A) ~~Private Stormwater Management~~ Illicit Discharge Detection and Elimination

- (1) **Purpose.** The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the City of Shoreview through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Section establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the MS4 permit issued to the City of Shoreview by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Section are:
 - (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
 - (b) To prohibit illicit connections and discharges to the MS4.
 - (c) To establish legal authority to carry out all inspection, and enforcement procedures necessary to ensure compliance with this Section.
- (2) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section:
 - (A) **Hazardous materials** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Categories of hazardous waste include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants, and corrosives.
 - (B) **Illegal discharge** means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 209.060(6)(a)(i).
 - (C) **Illicit connections** is defined as either of the following:
 - (i) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to sewage, process wastewater, wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - (ii) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in

plans, maps, or equivalent records and approved by an authorized enforcement agency.

(D) Industrial activity means activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).

(E) Municipal Separate Storm Sewer System (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, stormponds, infiltration chambers and basins, rain gardens, storm drains, and all other stormsewer system infrastructure) owned and operated by the City of Shoreview and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

(F) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by Minnesota Pollution Control Agency that authorizes the discharge of pollutants to public waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(G) Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

(H) Person An individual, firm, corporation, association or partnership.

(I) Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(J) Premises means a lot, plot or parcel of land, including the building or structures thereon.

(K) Storm drainage system means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped

storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(L) Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(M) Stormwater management plan means the best management practices and activities to be implemented by a property owner to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, the stormwater drainage system, and/or receiving waters to the maximum extent practicable.

(N) Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(O) Watercourse means a ditch, stream, creek, swale, or other defined channel intended for the conveyance of water, runoff, groundwater discharge or similar hydraulic or hydrologic purpose.

- (2) **Applicability.** This Section shall apply to all water entering the storm drainage system and MS4.
- (3) **Compatibility with Other Regulations.** This Section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
- (4) **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this Section are minimum standards; therefore this Section does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.
- (5) **Discharge Prohibitions.**
 - (a) *Prohibition of illegal discharges.* No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 or storm drainage system any pollutants or waters containing any pollutants, other than stormwater. The commencement,

conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (i) The following discharges are exempt from discharge prohibitions established by this Section:
 - (aa) Water line flushing, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, individual residential car washing, flows from riparian habitats and wetlands, and street wash water.
 - (bb) Discharge of swimming pools subject to Section 205.080(6)(f), crawl spaces, sump pumps, footing drains, and other sources that may be determined to contain sediment or other forms of pollutants may NOT be discharged directly to a gutter or storm sewer. This discharge must be allowed to flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals, and infiltration of water consistent with the stormwater requirements of the City of Shoreview.
- (ii) Discharges or flow from firefighting and other discharges specified by the City of Shoreview as being necessary to protect public health and safety.
- (iii) Discharges associated with dye testing, however dye testing requires a notification to the City of Shoreview prior to the test.
- (iv) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (i) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - (aa) This prohibition includes all illicit connections made prior to the adoption of this ordinance regardless of whether said connection was

permissible under law or practices applicable or prevailing at the time of connection.

- (bb) A person is considered to be in violation of this Section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (ii) Improper connections in violation of this Section must be disconnected and redirected, to an approved onsite wastewater management system or the sanitary sewer system subject to approval by the City of Shoreview.
- (iii) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice from the City of Shoreview, such notice shall require locating be completed, and will specify a reasonable time period within which the location of the drain or conveyance. Results of these investigations are to be documented and provided to the City of Shoreview.

(7) **Right of Entry.** The City of Shoreview shall be permitted to enter and inspect private systems that connect to the MS4 or storm drainage system subject to regulation under this Section as often as may be necessary to determine compliance with this Section.

(8) **Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the use of Best Management Practices.** The City of Shoreview will develop or identify requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or public waters. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall comply with the current stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

(9) Violations. In addition to the penalties established pursuant to Section 101.040, the City shall take action commensurate with the severity of the discharge, including:

- (1) *Emergency cease and desist orders.* When the City finds that any person has violated, or continues to violate, any provision of this Section, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City may issue an order to the violator directing it immediately to cease and desist all such violations
- (2) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this Section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.
- (3) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense; and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(10) Remedies Not Exclusive. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Shoreview to seek cumulative remedies. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Section, including sampling and monitoring expenses.

Coal-Tar-Based Pavement Sealcoat, Polycyclic Aromatic Hydrocarbons (PAHs), and Environmental Health

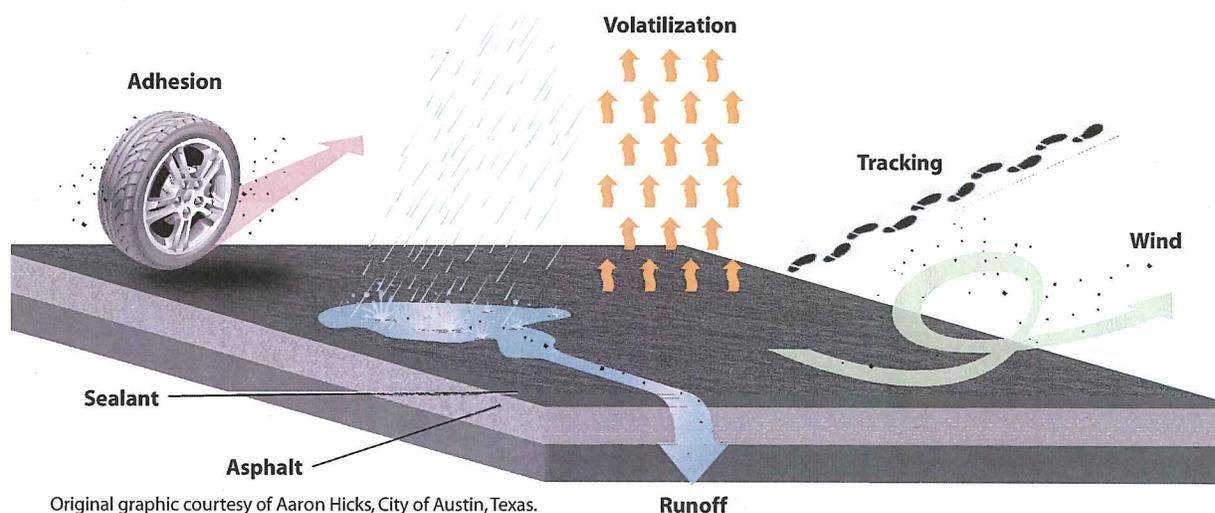
Studies by the U.S. Geological Survey (USGS) have identified coal-tar-based sealcoat—the black, viscous liquid sprayed or painted on asphalt pavement such as parking lots—as a major source of polycyclic aromatic hydrocarbon (PAH) contamination in urban areas for large parts of the Nation. Several PAHs are suspected human carcinogens and are toxic to aquatic life.



Sealcoat is the black, viscous liquid sprayed or painted on the asphalt pavement of many parking lots, driveways, and playgrounds.

Key Findings

- Dust from pavement with coal-tar-based sealcoat has greatly elevated PAH concentrations compared to dust from unsealed pavement.
- Coal-tar-based sealcoat is the largest source of PAH contamination to 40 urban lakes studied, accounting for one-half of all PAH inputs.
- Coal-tar-based sealcoat use is the primary cause of upward trends in PAHs, since the 1960s, in urban lake sediment.
- Residences adjacent to parking lots with coal-tar-based sealcoat have PAH concentrations in house dust that are 25 times higher than those in house dust in residences adjacent to parking lots without coal-tar-based sealcoat.
- PAHs move from a sealcoated surface into our environment by many mechanisms: storm runoff, adhesion to tires, wind, foot traffic, and volatilization.



Original graphic courtesy of Aaron Hicks, City of Austin, Texas.

What are Sealcoat, PAHs, and Coal Tar?

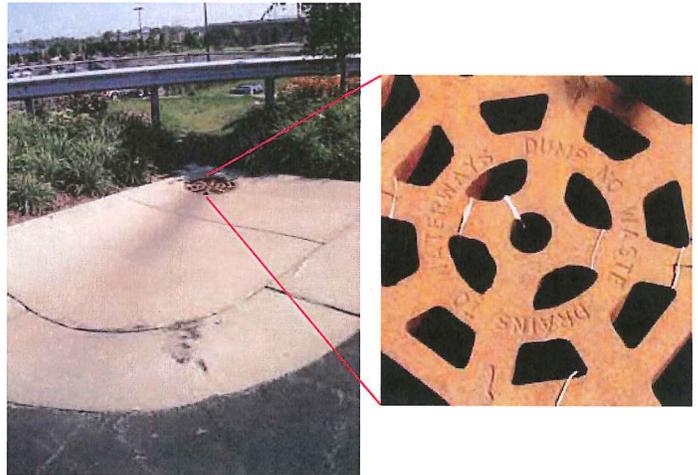
Pavement sealcoat (also called sealant) is a black liquid that is sprayed or painted on some asphalt pavement. It is marketed as protecting and beautifying the underlying pavement, and is used commercially and by homeowners across the Nation. It is applied to parking lots associated with commercial businesses, apartment and condominium complexes, churches, schools, and business parks, to residential driveways, and even to some playgrounds. Most sealcoat products have a coal-tar-pitch or asphalt (oil) base. Coal-tar-based sealcoat is commonly used in the central, southern, and eastern United States, and asphalt-based sealcoat is commonly used in the western United States.

PAHs are a group of chemical compounds that form whenever anything with a carbon base is burned, from wood and gasoline to cigarettes and meat. PAHs also are in objects and materials, such as automobile tires and coal tar, the production of which involves the heating of carbon-based materials. PAHs are of environmental concern because several are toxic, carcinogenic, mutagenic, and/or teratogenic (causing birth defects) to aquatic life, and seven are probable human carcinogens (U.S. Environmental Protection Agency, 2009).

Coal tar is a byproduct of the coking of coal for the steel industry and coal-tar pitch is the residue remaining after the distillation of coal tar. Coal-tar pitch is 50 percent or more PAHs by weight and is known to cause cancer in humans (International Agency for Research on Cancer, 1980). Coal-tar-based sealcoat products typically are 20 to 35 percent coal-tar pitch. Product analyses indicate that coal-tar-based sealcoat products contain about 1,000 times more PAHs than sealcoat products with an asphalt base (City of Austin, 2005).

How does Sealcoat get from Driveways and Parking Lots into Streams and Lakes, Homes, and the Air?

Friction from vehicle tires abrades pavement sealcoat into small particles. These particles are washed off pavement by rain and carried down storm drains and into streams. Other sealcoat particles adhere to vehicle tires and are transported to other surfaces, blown offsite by wind, or tracked indoors on the soles of shoes. Some of the PAHs in sealcoat volatilize (evaporate), which is why sealed parking lots and driveways frequently give off a “mothball” smell. Sealcoat wear is visible in high traffic areas within a few months after application, and sealcoat manufacturers recommend reapplication every 2 to 4 years.



Runoff from sealcoated pavement (black surface) enters storm drains that lead to local streams. Drain grate (inset) is marked “DUMP NO WASTE” and “DRAINS TO WATERWAYS.”

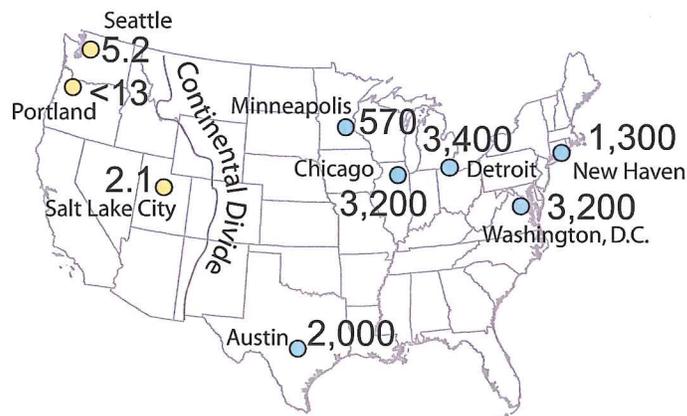


Gray asphalt pavement shows through where sealcoat has worn off the driveway of an apartment complex.

The East-West Divide

Regional Product Use Translates to Large Differences in PAH Concentrations

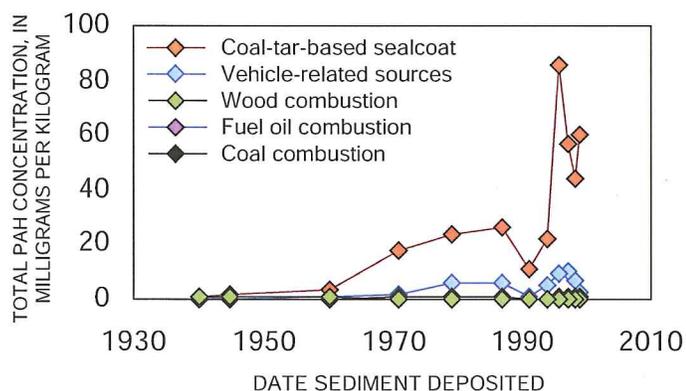
Does product type really matter? PAH concentrations in the coal-tar-based sealcoat product are about 1,000 times higher than in the asphalt-based product (more than 50,000 milligrams per kilogram [mg/kg] in coal-tar-based products and 50 mg/kg in asphalt-based products [City of Austin, 2005]). Anecdotal reports, such as Web sites, blogs, and comments by industry representatives, indicate that the coal-tar-based product is used predominantly east of the Continental Divide and the asphalt-based product is used predominantly west of the Continental Divide. During 2007–08, the USGS swept dust from sealcoated and unsealcoated parking lots in nine cities across the United States and analyzed the dust for PAHs. For six cities in the central and eastern United States, the median PAH concentration in dust from sealcoated parking lots was 2,200 mg/kg, about 1,000 times higher than in dust from sealcoated parking lots in the western United States, where the median concentration was 2.1 mg/kg. Although both product types are available nationally, these results confirm the regional difference in use patterns (Van Metre and others, 2009).



Concentrations of PAHs in dust swept from sealed parking lots in central and eastern U.S. cities, where coal-tar-based-sealcoat use dominates, were about 1,000 times higher than in western U.S. cities, where asphalt-based-sealcoat use dominates. Concentrations shown on the map are the sum of 12 PAHs, in milligrams per kilogram (Van Metre and others, 2009).



“Fingerprinting” Shows that Coal-Tar Sealant is the Largest Source of PAHs to Urban Lakes

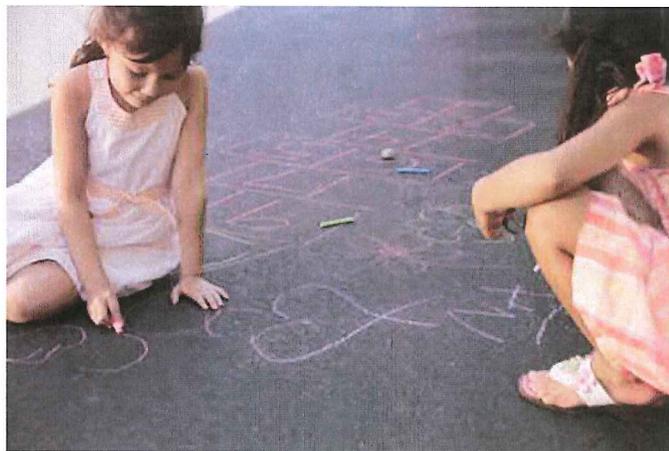


Coal-tar-based sealcoat (orange symbol) is the largest contributor to increasing concentrations of PAHs in Lake Killarney, Orlando, Florida, as determined by chemical fingerprinting. Similar patterns were seen in lakes across the central and eastern United States (Van Metre and Mahler, 2010).

PAHs are increasing in urban lakes across the United States. To better understand why this might be happening, USGS scientists collected sediment cores from 40 lakes in cities from Anchorage, Alaska, to Orlando, Florida, analyzed the cores for PAHs, and determined the contribution of PAHs from many different sources by using a chemical mass-balance model. The model is based on differences in the chemical “fingerprint” of PAHs from each source. Coal-tar-based sealcoat accounted for one-half of all PAHs in the lakes, on average, while vehicle-related sources accounted for about one-fourth. Lakes with a large contribution of PAHs from sealcoat tended to have high PAH concentrations; in many cases, at levels that can be harmful to aquatic life. **Analysis of historical trends in PAH sources to 8 of the 40 lakes indicates that sealcoat use is the primary cause of increases in PAH concentrations since the 1960s.** Identifying where PAHs are coming from is essential for developing environmental management strategies (Van Metre and Mahler, 2010).

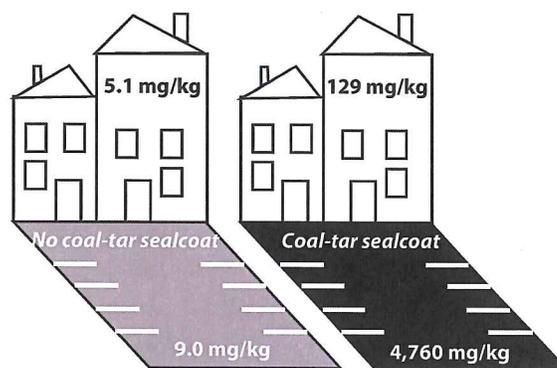
From Outside to Inside Coal-Tar Pavement Sealant Linked to PAHs in House Dust

House dust is an important source for human exposure to many contaminants, including PAHs. This is particularly true for small children, who spend time on the floor and put their hands and objects into their mouths. In 2008, the USGS measured PAHs in house dust from 23 ground-floor apartments and in dust from the apartment parking lots. Apartments with parking lots with coal-tar-based sealcoat had PAH concentrations in house dust that were 25 times higher, on average, than concentrations in house dust from apartments with parking lots with other surface types (concrete, unsealed asphalt, and asphalt-based sealcoat). PAH concentrations in the dust from the parking lots with coal-tar-based sealcoat were 530 times higher, on average, than concentrations on the parking lots with other surface types.



Photograph obtained from Jupiter Images.

What about other sources of PAHs? Although tobacco smoking, candle and incense burning, and barbecue and fireplace use have been suggested to affect PAH concentrations in house dust, this study found no relation between any of these, or the many other factors considered, and PAH concentrations in the house dust. The presence or absence of coal-tar-based sealcoat on the apartment complex parking lot was strongly correlated with PAH concentrations in house dust; the only other variable that was related to PAH concentrations in house dust was urban land-use intensity (the percentage of land near the apartment dedicated to multifamily residential, commercial, office, warehouse, or streets) (Mahler and others, 2010).



Apartments with coal-tar-based sealcoat on the parking lot had much higher concentrations of PAHs, both in indoor dust and in parking lot dust, than apartments with an unsealed asphalt or concrete parking lot or with a parking lot with asphalt-based sealcoat. Concentrations shown are for the sum of the 16 U.S. Environmental Protection Agency priority pollutant PAHs (Mahler and others, 2010), in milligrams per kilogram (mg/kg).

There are no U.S. health-based guidelines for chronic exposure to PAHs in house dust. The only existing guideline is for a single PAH—benzo[*a*]pyrene—issued by the German Federal Environment Agency Indoor Air Hygiene Commission (Hansen and Volland, 1998). The guideline advises minimizing exposure to concentrations of benzo[*a*]pyrene greater than 10 mg/kg in dust to avoid adverse health effects. That guideline was exceeded for 4 of the 11 apartments with coal-tar-sealcoated parking lots and for 1 of the 12 apartments with a parking lot with a different surface type. Also of concern is exposure to the sealcoated pavement surfaces themselves through play activities. Dust on some of the sealcoated parking lots had a concentration of benzo[*a*]pyrene that was more than 50 times higher than the German guideline.



Photograph courtesy of CLEARCorps, Durham, North Carolina.

Our Environment and Us

What are the Concerns?

Some PAHs are toxic to mammals (including humans), birds, fish, amphibians (such as frogs and salamanders), and plants. The aquatic invertebrates—insects and other small creatures that live in streams and lakes—are particularly susceptible to PAH contamination, especially those that live in the mud where PAHs tend to accumulate. These invertebrates are an important part of the food chain and are often monitored as indicators of stream quality (analogous to the “canary in the coal mine” concept). Possible adverse effects of PAHs on aquatic invertebrates include inhibited reproduction, delayed emergence, sediment avoidance, and mortality. Possible adverse effects on fish include fin erosion, liver abnormalities, cataracts, and immune system impairments. The Probable Effect Concentration (PEC) of 22.8 mg/kg of total PAHs (MacDonald and others, 2000)—a widely used sediment quality guideline that is the concentration in bed sediment expected to have harmful effects on bottom-dwelling biota—is exceeded in one-third of the central and eastern U.S. urban lakes where PAH sources were studied.



When turned over, red spotted newts that had been exposed to sediment contaminated with coal-tar-based sealcoat had difficulty righting themselves (Bommarito and others, 2010b). Poor reflexes could result in decreased survival. Photograph by Megan Gibbons, Birmingham-Southern College.

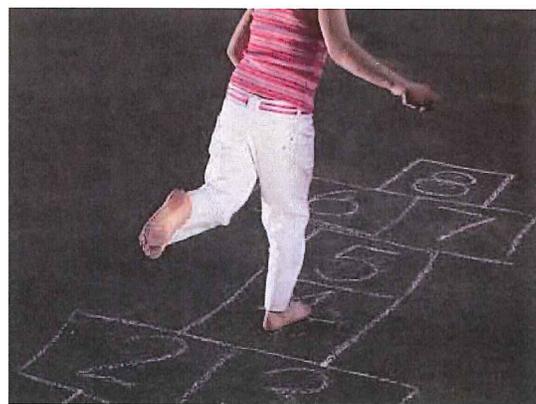
Scientific studies have shown a relation between coal-tar-based pavement sealcoat and harmful effects on aquatic life.

- Aquatic communities downstream from storm-water runoff from sealcoated parking lots were impaired (Scoggins and others, 2007).
- Salamanders and newts exposed to sediment contaminated with coal-tar-based sealcoat had stunted growth, difficulty swimming or righting themselves, and liver problems (Bommarito and others, 2010a, b).
- Frogs exposed to sediment contaminated with coal-tar-based sealcoat died, had stunted growth, or developed more slowly than usual (Bryer and others, 2006).



Tumors in brown bullhead catfish from the Anacostia River, Washington, D.C., are believed to be related to elevated PAH concentrations (Pinkney and others, 2009). Photograph by A.E. Pinkney.

Human health risk from environmental contaminants usually is evaluated in terms of exposure pathways. For example, people could potentially be exposed to PAHs in sealcoat through ingestion of abraded particles from driveways, parking lots, or play grounds, or through skin contact with the abraded particles, either directly or by touching toys or other objects that have been in contact with the pavement. Inhalation of wind-blown particles and of fumes that volatilize from sealed parking lots are other possible pathways. **PAHs in streams and lakes rarely pose a human health risk from contact recreation or drinking water because of their tendency to attach to sediment rather than to dissolve in water.**



Skin contact is one way humans can be exposed to PAHs. Parking lots and driveways with coal-tar-based sealcoat have concentrations of PAHs hundreds to thousands of times higher than those with asphalt-based sealcoat or no sealcoat. Photograph obtained from Corbis Images, Inc.

FAQ

Q) *What is coal tar?*

A) Coal tar is a thick, black or brown liquid that is a byproduct of the carbonization of coal for the steel industry or the gasification of coal to make coal gas.

Q) *What is the difference between crude coal tar, coal-tar pitch, and “refined” coal tar?*

A) Coal-tar pitch is the residue that remains after various light oils are distilled from crude coal tar for commercial use. The coal-tar pitch is then separated (refined) into 12 different viscosities, RT-1 (the most fluid) through RT-12 (the most viscous). RT-12 is the viscosity used in coal-tar-based pavement sealcoat.

Q) *How can I tell if a product contains coal tar?*

A) To determine if the product has a coal-tar base, look for the Chemical Abstracts Service (CAS) number 65996-93-2 on the product Material Safety Data Sheet (MSDS). The words “coal tar,” “refined coal tar,” “refined tar,” “refined coal-tar pitch,” or other similar terms may be listed on the MSDS or on the product container.

Q) *Is sealcoat used on roads?*

A) Use on roads is extremely rare. Occasionally a private property, such as a housing development, will choose to have the roads sealcoated.

Q) *Is use of coal-tar-based sealant regulated?*

A) Several jurisdictions, including the City of Austin, Texas, the City of Washington, D.C., Dane County, Wisconsin, and several suburbs of Minneapolis, Minnesota, have banned use of coal-tar-based sealcoat. Similar bans are under consideration in other jurisdictions.

For more information on USGS research on PAHs and coal-tar-based sealcoat go to <http://tx.usgs.gov/coring/allthingssealcoat.html>.

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Lafayette Publishing Service Center

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Any use of trade, product, or firm names is for descriptive purposes only and does not imply endorsement by the U.S. Government.

To: Mayor, City Council, City Manager
From: Kathleen Nordine, City Planner
Date: January 19, 2012
Subject: Enforcement of Temporary Commercial Signs

Introduction

A recent complaint and enforcement of temporary business signage has prompted further review of the City's temporary sign regulations. Those businesses that were identified in the complaint expressed concern regarding what they view to be overly restrictive regulations and enforcement action that hurts their business especially during difficult economic times. Staff is seeking City Council direction on how aggressive the City should be in the enforcement of temporary commercial sign regulations.

Temporary Sign Regulations

Attached is an excerpt from the City Code regarding the regulations for temporary business signs. The intent of these regulations is to allow businesses to advertise special events or promotions while maintaining an attractive business environment. A business may display a temporary sign provided the sign complies with these standards or other standards that may have been placed on the property with a Comprehensive Sign Plan or Planned Unit Development. The following summarizes the regulations:

- Temporary signs are defined as any sign that is displayed on a non-permanent basis for a limited period of time.
- The type of temporary sign permitted is limited to a banners and must advertise a product or service on the property. Readerboards, sandwich boards, inflatable devices and other types of temporary signs are not permitted.
- Banners must be affixed to the principal structure and not exceed 32 square feet in area.
- No more than 2 are permitted per calendar year, per building.
- The display period cannot exceed 7 days unless associated with a grand opening, then the sign may be displayed up to 14 days.
- A minimum period of thirty (30) days is required between temporary sign permits issued for a building.
- Window signs are permitted provided they do not exceed 33% of the window area and are not illuminated. A temporary sign permit is not required for window signs.

A Sign Permit is required to display a temporary sign. The current fee is \$30.00. The following table summarizes the permits issued.

YEAR	Number of Temporary Sign Permits	Locations
2008	1	Linders (Rainbow)
2009	3	Linders; Two at Rice Creek Retail Center
2010	2	Linders; Arden Nursery (Shoreview Mall)
2011	3	Linders; Arden Nursery; NYFS

Code Enforcement Efforts

Code enforcement efforts regarding signage has primarily focused on addressing temporary signs in the public right-of-way, including those on utility poles. The Code Enforcement staff has conducted sweeps pulling temporary signs placed along the primary roadways in the City. Signs which are pulled are held for a reasonable period of time and then disposed of unless claimed by the owner. A sign impoundment fee of \$25.00 is charged.

The staff has received a very small number of complaints regarding temporary signage on business property. When a complaint has been received, the standard code enforcement process is followed. The property owner/business is notified of the city's requirements and the need for a permit.

Temporary Business Signage in the Community

Attached you will find photographs of temporary signage being displayed on commercial and multi-family residential properties in the City. The majority of these signs are being displayed without the proper permits. Furthermore, many are not permitted and have been displayed longer than what would be allowed with a temporary sign permit.

The following is a summary of some general observations and staff experience regarding temporary business signs:

- Businesses utilize temporary banners to advertise a specific sale event or product
- Typically temporary signs are for retail establishments however sometimes office/manufacturing businesses will advertise vacant jobs or special events
- Some commercial businesses will incorporate flags, pennants and similar methods to visually attract customers
- Banners and other signs are utilized in lieu of permanent installed signage
- Commercial property owners/brokers will use temporary signs to show available tenant spaces in a retail center

- Apartment complexes will use temporary signs to market unit vacancies and rental discounts
- Window signs are found in a variety of commercial business and in some instances exceed the maximum window coverage requirement or are lit.

At this time, the staff is seeking direction from the Council on how to approach the enforcement of temporary business signage in the community. The attached photographs show that the extent of non-compliant conditions throughout the community. Staff believes that more proactive enforcement of the regulations may be burdensome for staff and potentially create a negative reaction from the business community. However, staff also feels some obligation to act when a complaint is received, which then raises an issue of fair and equal enforcement throughout the community when the City may be aware of similar violations at other business locations.

In addition to the more obvious reasons for marketing and attracting customers, businesses will often use temporary signage as a much cheaper method of identification and promotion versus more permanent and expensive commercial signs. While staff has not seen a large increase in temporary signs in the past few years, in cases where the City has enforced our regulations such businesses have referenced the need to use such methods to remain competitive in the current economic climate. One option to consider is whether the City should modify the existing regulations pertaining to temporary signage.

In the specific case of the Shoreview Village Mall, where the City received a complaint, there are numerous temporary banners being used by multiple tenants. The business that most expressed the most concern about the City's enforcement also has the most number of temporary banners and sandwich board types signs at the property monument signs and along their storefront. Also in this case, the City had the support of the mall ownership as they too were trying to enforce the number of temporary signs, but received pushback from some of their retail tenants.

In general, staff does not see a major issue with temporary business signage in the community. In some cases it can be the cumulative number of temporary signs at a specific business or property that raises the concern of both fairness to other businesses who comply with our sign regulations and/or the overall appearance of a property.

Excerpt from the City Code – Temporary Sign Regulations

208.040 Permitted Signs and Sign Standards:

(A) Standards, by Sign Type

(2) Business, Temporary

- (a) Such signs may consist of a banner affixed to a principal structure on the premises not to exceed 32 square feet of area.
- (b) No more than two temporary business signs shall be allowed per calendar year, per building, and permits for such signs shall not exceed seven (7) days unless associated with a Grand Opening of a business or development, when a temporary sign may be displayed for up to 14 days. All such signs shall be removed from the premises no more than one working day following the expiration of the permit.
- (c) A minimum period of thirty (30) days shall be required between temporary sign permits issued for a building.
- (d) No temporary business signs shall be allowed for business located on property that has a changeable copy sign.
- (e) All temporary sign messages must relate to a product(s) or service(s) available on the premises, unless the message is noncommercial.
- (f) Any banner sign must be affixed to the principal structure in which the associated business is located, except as permitted in Section 208.030(A)(2).
- (g) Window signage visible outside of the building is permitted only for commercially zoned property, provided:
 - (i) It does not exceed 33 percent of the total glass area of the window or door in which displayed.
 - (ii) It is not illuminated.
- (h) Help Wanted Signs. Temporary display of help wanted signs is permitted as following:

- (i) The sign is displayed for a period not to exceed 3 months with a period of one month between signs.
- (ii) Only one temporary help wanted sign is permitted per property.
- (iii) The temporary help wanted sign shall be set back the greater of 5 feet from all property lines or not less than the setback of the principal freestanding sign.
- (iv) The sign area shall not exceed 32 square feet unless greater area is approved by the City Manager.
- (v) The sign shall not be used for advertising or commercial messages outside the purposes of employee recruitment.

