



**ORDINANCE 2014-01 REGULATING STAINING MATERIALS INCLUDING RED
SOIL, CLAYS, AND SAND CLAY MIXTURES WITHIN
THE TOWN OF PERDIDO BEACH**

WHEREAS, the Town Council of the Town of Perdido Beach believes that it is in the best interest of the health, safety and welfare of the citizens of the Town to preserve the Town's natural sands, top soils and the quality and clarity of the local water bodies; and

WHEREAS, using certain staining materials as fill, support and even grade or for any other similar use may discolor the natural sands, top soils and waters bodies within the Town; and

WHEREAS, the Town Council recognizes that the procedures set forth hereafter will protect both the Town of Perdido Beach and its citizens and the owners of properties coming under the jurisdiction of this ordinance and made subject of these procedures.

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Perdido Beach, Alabama as follows:

SECTION 1: Definitions

For the purposes of this ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section unless taken specific exception to elsewhere in this ordinance.

1. **Town** means the Town of Perdido Beach, Alabama
2. **Construction** means the process of building; altering; repairing; remodeling; improving or demolishing any structure, building or other improvement of any kind on any real property including routine operation; repair and maintenance of structures, buildings and real property; and any land disturbing activity.
3. **Fill** means all soil or other solid materials added to any land surface
4. **Filling activity** means any soil or fill material transported from any other location to the site in question. For construction projects including but not limited to the following:
 - a. Roadways
 - b. Driveways
 - c. Shoreline stabilization
 - d. Foundations
 - e. Fill
5. **Staining materials** means all soils and fill materials that have more than 10% by weight passing through a 200 mesh sieve, including those soils having chroma and color value which could pose a threat to the quality and clarity of local water bodies, as determined on a case by case basis by a designee of the Town. Soil shall include but not be limited to the following.
 - a. Top soil
 - b. Subsoil
 - c. Sand

6. **Watershed** means the sum of the land that drains into a specific low point

SECTION II: Purpose

The purpose of this ordinance is to protect the quality and clarity of the water bodies and the environmental integrity of the watersheds within the Town of Perdido Beach planning jurisdiction. The purpose will be accomplished specifically by prohibiting the use, transportation and/or transfer within or into the town limits of staining materials, including red soil, clays and sand clay mixtures, which may harm aquatic plants or marine life.

SECTION III: Objectives

Objectives are as follows.

1. To protect humans, wildlife and natural resources
2. To prevent erosion and sedimentation (siltation)
3. To protect the quality and clarity of local water bodies
4. To prohibit the use, transportation, and/or transfer within or into the town of staining materials including red soils, clays and sand clay mixtures.

SECTION IV: Prohibition – areas affected

No staining materials shall be used for any filling activity within the town limits of the Town of Perdido Beach, Alabama.

SECTION V: Land Disturbance Permit Required

No person, firm or corporation shall commence filling activity within the Town's planning jurisdiction until the landowner or contractor has obtained a land disturbing permit from the Town in accordance with "**TOWN OF PERDIDO BEACH LAND USE AND ZONING ORDINANCE NUMBER 2011-02**".

This section shall not apply to land disturbing activity that is occurring as part of farming and/or gardening.

Warning and disclaimer: The consent of the Town to issue a permit based on a particular design for erosion control measures shall not constitute a representation, guaranty or warranty of any kind by the Town or its agents, officers or employees as to the practicability, adequacy or safety of such design.

SECTION VI: Commencement of work

No person, firm or corporation shall transport into the Town's planning jurisdiction any staining materials, including red soils, clays and sand clay mixtures. The Town may elect to require a third party review, at the expense of the permittee, for variation of this ordinance in regards to red soil prohibitions and necessary usages.

SECTION VII: Maintenance of control measures

It shall be the responsibility of the permittee to ensure compliance with this ordinance. Failure or refusal to comply shall be cause for the Town, through its enforcement officers, to issue Stop Work Orders suspending all work. Stop Work Orders shall not stop or delay remedies necessary to stabilize the property and/or to correct the deficiencies.

SECTION VIII: Remedies

In the event of imminent danger or damage to adjacent properties or downstream areas due to failure of permittee to comply, the Town may perform or cause to be performed, the work that the Town deems necessary to restore protection of such properties and the cost thereof shall be charged against the subject land as a municipal lien, such charges to be recovered in a lawsuit against the owner.

SECTION IX: Penalties

Any person violating the provisions of this ordinance shall, upon conviction thereof, be fined a sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and, in addition thereto, may be sentenced to jail for a term of not more than six (6) months. Each day during which any violation of any of the provisions of the Ordinance is committed, continued, or permitted shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful actions as are necessary to prevent or remedy any violation.

SECTION X: Miscellaneous Provision

The sections, paragraphs, sentences, clauses and phrases of the ordinance are severable, and if any section, paragraph, sentence or clause of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other section, paragraph, sentence, clause or phrase, since the same would have been enacted by the Town Council without the incorporation of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION XI: Effective date

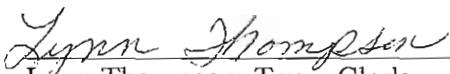
This ordinance shall be in full force and effect upon its adoption by the Town Council of the Town of Perdido Beach, Alabama and publication as required by law.

APPROVED AND ADOPTED this 27th day of January, 2014.



Patsy W. Parker, Mayor

ATTEST:



Lynn Thompson, Town Clerk