

ORDINANCE NUMBER 61  
TOWN OF DAUPHIN ISLAND

AN ORDINANCE REGULATING THE USE OF RED CLAY  
AND CONSTRUCTION CLAY WITHIN THE TOWN OF  
DAUPHIN ISLAND FOR THE PROTECTION OF THE  
BEACHES, STREAMS, CREEKS, LAKES, AND BAY

Section 1: PURPOSE OF ORDINANCE

The purpose of Sections 2 through 8 is to regulate and prohibit the hauling and the use of clays, sand clays, and any other material, here after referred to as "Red Clays", that can be potentially discoloring to the natural white sands and to the waters, in certain areas of the city; and to regulate and require permitting for the use of Red Clays and Construction Clays in other areas of the Town. The intent of this Ordinance is to protect the beaches and waters of Dauphin Island from discoloration and contamination.

Section 2: DEFINITIONS

2-1: RED CLAY

Red Clay shall be defined to include all soils and fill materials exhibiting red, and/or brown color characteristics as defined by the Munsell Soil Color Charts: a) Chart 7.5YR, soils with values less than 4/6; b) Chart 7.5R, soils with values less than 5/8.

2-2: Construction Clay (sometimes called subsoil)

All clays and fill materials that do not exhibit a red color as defined by the Munsell Soil Color Charts: a) Chart 7.5YR, soils with values greater than 4/6; b) Chart 7.5R, soils with values greater than 5/8 are classified as "construction clay" (subsoil).

2.3: Top Soil is defined as those soils that do not exhibit a red and/or dark brown color.

Section 3: RED CLAY

3-1: AREAS IN WHICH RED CLAY IS PROHIBITED

It shall be unlawful for any person to use any Red Clay (as defined in Section 2-1) in the following areas located in the Town of Dauphin Island: a) all lands south of a line from the southern most point on Fort Gaines west to the southeast property line corner of 301 Admiral Semmes Ave, thence west to the southwest property line corner at 315 Admiral Semmes Ave, thence west to the southeast property line corner of 1601 Bienville Blvd. (hereafter known as "Red Clay Line"); b) all lands west of a north-south line defined by the extension of the center line of Penalver Street south to the Gulf of Mexico and north to the Mississippi sound; c) all lands within 150 feet of a stream, lake, creek, shore line, or bulkhead on the north shore of Dauphin Island; d) all of Little Dauphin Island.

3-2: AREAS IN WHICH RED CLAY MAY BE USED

East of a north-south line defined by the extension of the center line of Penalver Street south to the Gulf of Mexico and north to the Mississippi sound, and north of the line described in 3-1 a) ["Red Clay Line"], and south of the line described in 3-1 c).

Section 4: Construction Clay (subsoil) and Top Soil

4.1 Construction Clay (sometimes called subsoil) as defined in paragraph 2-2 may be used on Dauphin Island for streets and driveways east of a line defined by west property line of 105 Windward Court extended south to the Gulf of Mexico and north to the Mississippi sound.

4.2 Top Soil for landscaping may be used throughout Dauphin Island with a permit from the Building Inspector. Only materials of a light earth tone color that will not stain sand are permitted. The Building Inspector will determine the suitability of soil being proposed for each location.

Section 5: Permits

5-1 It shall be unlawful for any person to transport or use Red Clay or Construction Clay or Top Soil (as defined in Section 2) on Dauphin Island and its police jurisdiction without first obtaining a permit for such use from the Building Inspector.

5-2 A permit must be obtained before any soil material is transported to, or moved from one location to another on Dauphin Island. The building official will collect a permit fee in the amount of twenty-five dollars (\$25.00) and shall require a sample of all off Island soil material with certification of material type, plans and drawings showing the location of the proposed use of the material, and before such use shall approve the method of containment of such material if required. Failure to obtain a permit prior to any soil being transported to or moved from one location to another on Dauphin Island shall result in a fine of five hundred dollars (\$500.00) per truck load. The building official shall require the owner, or someone acting with the owner's authority, to sign a statement accepting responsibility for any unauthorized use of Red Clay and the responsibility to clean any discolored area and restore the area to its original condition prior to the use of such material.

5-3 Notwithstanding the above prohibitions, any excavation of a street or roadway for repairs, or utility crossings, made pursuant to the provisions of the Town excavation regulations, in which an existing clay sub-base is encountered, may be backfilled using the excavated material.

Section 6: GRANTING EXCEPTIONS

Any exception from the provisions of Sections 1 through 5 shall be granted by the Town Council in writing. The Town of Dauphin Island may use light earth tone clays to stabilize roads and streets anywhere on Dauphin Island.

Section 7: INJUNCTIVE RELIEF

The Town Council retains the right to bring an appropriate action for injunctive relief to require the payment of damages and/or removal from the Town or its police jurisdiction all earth materials used either: (1) where prohibited; or (2) without first obtaining a permit in those areas for which a permit is required; or (3) when a false or improper statement is made on the application for permit.

Section 8: CRIMINAL PENALTY

Any person who shall violate the provisions of this act shall, upon conviction, shall be guilty of a Class B misdemeanor. Each day during which such violation occurs or continues shall constitute a separate offense and shall be punishable as such.

1<sup>st</sup> Reading November 2, 1999

Posted November 3, 1999 (15 days prior to Public Hearing)

Public Hearing December 7, 1999

2<sup>nd</sup> Reading December 7, 1999

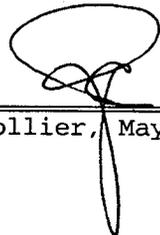
Adopted This day 7th of December in 1999

Posted 12-8-1999

Effective Date Upon repeal of State Law Act No. 92-398

Attested:

Ginger Simpson  
Ginger Simpson, Town Clerk

  
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Jeff Collier, Mayor