

## **ARTICLE VI. REGULATION OF FILL MATERIALS**

### **Sec. 14-701. Fill permit required.**

(a) Except as provided in this section and section 21-80, no person may deposit or dump on any property or allow to be deposited or dumped on the person's property or property under the person's control, any dirt or other fill materials without securing a fill permit from the Building Official as provided by section 14-702.

(b) This provision does not apply to persons depositing or dumping and spreading dirt, sand or other gardening materials on the premises used in connection with an existing building for landscaping purposes, or to the dumping or depositing sand or other building material on a lot in connection with construction of improvements in progress for which a building permit has been obtained, or to the dumping or depositing of dirt, sand, fill material, or refuse at a solid waste disposal facility permitted by the Texas Commission on Environmental Quality.

### **Sec. 14-702. Issuance of fill permit.**

(a) The Building official is responsible for the issuance of dumping permits for dumping or depositing dirt and other fill material.

(b) No fill permit may be issued for dumping or depositing refuse.

(c) Each fill permit will be issued to a specific person, firm or corporation to fill a specifically described piece of property and must specify the type of fill material and the duration of the fill permit, which shall not be for a period in excess of thirty calendar days. A one time extension of 30 calendar days will be considered by the Building Official provided the applicant submits a request in writing outlining the reasons for the extension.

(d) Before the fill permit is issued, the Building Official must be satisfied that the dirt or fill material appears to be free from any substance injurious to the public health and welfare, and that the dirt or fill material will be handled and dumped or deposited and leveled off in a manner that apparently will not be injurious to the public health, interfere with drainage from an adjoining property, or divert storm waters onto an adjoining property.

(e) The Building Official is authorized to promulgate forms to be completed by applicants for fill permits requiring any information deemed necessary to carry out the purposes of this section.

(f) The applicant for a fill permit must pay the fill permit application fee before the permit is issued.

### **Secs. 14-703 – 14-800. Reserved.**

## **ARTICLE VIII. CONTROL OF AEOLIAN SOILS**

### **Sec. 14.801. General.**

(a) Exposed, graded, uncovered lands, or cleared land prepared or being prepared as a construction site, particularly susceptible to denudation through wind-blowing of soils shall be considered a detriment of the environment, an extreme annoyance and discomfort to the inhabitants, a peril to traffic, and a hazard to the respiratory health of the people.

(b) In addition, exposed, graded, and uncovered lands on Padre Island, Mustang Island, and Flour Bluff, especially lots that have at least one property line common to a developed or undeveloped canal, pose risks to the local economy since the deposit of sand in the canals can cause shoaling of navigable waterways and increases the need for maintenance dredging.

**Sec. 14-802. Scope.**

(a) This article includes within its scope all lands within the corporate limits of the city and within five thousand (5,000) feet of the corporate limits.

(b) This article does not apply to a plot of land containing an area of less than ten (10) square feet that is situated, at its nearest edge, more than sixty (60) feet from the nearest property line enclosing the plot.

(c) This article does not apply to lands in actual, present cultivation for agricultural purposes, since prevailing, good soil management practice reduce the foreseeable risks, problems, perils, and hazards associated with exposed, graded, uncovered lands.

**Sec. 14-803. Definitions.** As use in this article

*"Aeolian soil"* means a soil that is capable of being transported out of place on the tract or parcel of land where it occurs by a sustained fresh wind, or a wind of lesser velocity, in a duration of not less than five (5) seconds and by one (1) or more of such durations within any total period of two (2) hours outside of the bounding property lines within which it was situated prior to any transportation. An Aeolian soil is also any fine gravel, coarse sand, medium sand, fine sand, or very fine and falling within the soil separate diameter limit ranges taken from the United States Department of Agriculture as follows:

Fine gravel or very coarse sand	2 to 1 mm.
Coarse sand	1 to 0.5 mm.
Medium sand	05. To 0.25 mm.
Fine sand	0.25 to 0.10 mm.
Very fine sand	0.10 to 0.05 mm.
Silt	0.05 to 0.002 mm.
Clay	0.002 to 0.001 mm.
Colloidal clay	below 0.001 mm.

*"Exposed land"* means land with topsoil that is plowed, turned, graded, or uncovered, other than land presently and actually in cultivation for agriculture, so that its natural or artificial cover, if any, has been substantially removed or plowed under, rendering such land subject to aeolian deposit in measurable quantities or abutting land or lands.

"Developed canal" means a canal with a bulkhead.

*"Fresh wind"* means a wind ranging in velocity from nineteen (19) to twenty-four (24) mph on the 0-12 Beaufort Scale, as modified by the National Oceanic and Atmospheric Administration, and shall be deemed to be prima facie evidence by the inspector's reported observation of swaying motion of small trees in leaf or crested wavelets forming on inland waters where such observations of such features occur within the subject tract or parcel or within a radius of three hundred (300) feet of a property line of the subject tract or parcel. Alternatively, a portable anemometer reading shall constitute such evidence.

*"Sands" and "sandy loams"* means for the purpose of further definition under of soil textural classification the following rules from the modified David-Bennet Triangle apply:

1. Sand or sands contain eighty (80) percent or more of sand.
2. Sandy loams contain more than fifty (50) percent but less than eighty (80) percent sand and have less than twenty (20) percent clay.

"Undeveloped canal" means a canal without a bulkhead.

*"Watered"* means the sprinkling of water on exposed land so that the land is completely covered by an average three (3) inches penetration in depth below the topsoil surface as evidenced by five (5) equally distanced six-inch borings, where each core sample contains a ratio of not less than three (3) parts water to ten (10) parts soil.

**Sec. 14-804. Procedures for testing soils.** In order to properly classify a soil for the purposes of this article, the following described mechanical analysis must be used:

- (1) Place exactly one hundred (100) grams of soil into a pint bottle.
- (2) Add ten (10) cc of a saturated solution of  $\text{Na}_2\text{CO}_3$  and fill the bottle three-fourths ( $\frac{3}{4}$ ) full with tap water.
- (3) Stopper the bottle and shake it for five (5) minutes in order to bring the soil in suspension.
- (4) Wash the sand sticking to the sides down into the bottle and allow the solution to stand for about two (2) minutes.
- (5) Theoretically, only silt and clay are now in suspension.

(6) Carefully pour off the suspended silt and clay, being careful to lose none of the sand.

(7) Refill the bottle with water, shake vigorously a few times, wash down the material sticking to the sides of the bottle, and again allow it to stand until all of the sand has settled.

(8) Decant the silt and clay as described in paragraph (6), repeating this process until the supernatant liquid is clear when the sand has settled.

(9) Wash the sand carefully into a large evaporating dish and allow to settle again, then pour off as much of the water as possible.

(10) Place the dish on a ring stand and heat gently with Bunsen burner until the sand is dry.

(11) After allowing the sand to cool, separate it into the various separates by use of sieves arranged in the following order 20 mesh, 40 mesh, 60 mesh, and 80 mesh.

(12) The material on top of the 20 mesh sieve is fine gravel; that on top of the 40 mesh sieve is coarse sand; that on top of the 60 mesh sieve is medium sand; that on the top of the 80 mesh sieve is fine sand; the material passing the 80 mesh sieve is very fine sand.

**Sec. 14-804. Containment of Aeolian soils during construction.**

(a) When it has been determined by the Building Official through observation or tests, that soils susceptible to denudation through wind-blowing exist on a construction site, the construction site owner must contain the blowing soil.

(b) The soils must be contained by the use of silt fencing reinforced with wire mesh support screening.

(c) The silt fences must be located in a manner that silt will be contained by the aeolian soils and prevent the aeolian soils from collecting in the City's storm water system, being deposited onto the property of others, or being blown into an adjacent canal system.

**Sec. 14-805 Offenses defined.**

(a) No person, as owner or as custodian of land, may cause, permit, or maintain any exposed land containing aeolian soil, sand, or sandy loam, which can be transported as stated in the definition of Aeolian soil in Section 14-403, within the corporate limits of the City and within five thousand (5,000) feet of such corporate limits, except lands presently and actually under cultivation for agricultural purposes, unless the land is watered as defined Section 14-403.

(b) Every day the person causes, permits, or maintains the existence of the unlawful condition constitutes a separate offense.

**Sec. 14-806. Enforcement.**

(a) *Access to property.*

(1) The Building Official may go upon any tract or parcel land subject to this article, irrespective of ownership or custody of the land, for the purpose of enforcing this article, and for the purpose of removing one (1) one hundred-gram soil sample, more or less, not more often than once in a twenty-four-hour period.

(2) The Building Official may remove, take, and test the sample, and may retain custody of the sample until the final disposition of any civil or criminal action filed in relation to a violation of this article or for one (1) year, whichever first occurs.

(b) *Survey*. The Building Official may enter and measure the perimeter dimensions of any exposed land in a subject tract or parcel.

(c) *Tests*. The Building Official may enter, make, and take the watered-test borings described in Section 14-803.

(d) *Prima facie case*. Wherever the Building Official observes the accumulation deposit of aeolian or wind-driven soil on the private land of one (1) person; upon any public street, way, or place; or in the City's storm water system that occupies an area of six (6) square feet or more that is adjacent to the exposed land of another person, and the condition substantially persists for fifteen (15) seconds there is prima facie evidence that the owner or custodian of the exposed land has violated this article, if the Building Official's observations are corroborated by at least one (1) other witness.

(e) The exercise of authority under this article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety, and the City of Corpus Christi; any of its officers, employees, agents, representatives; or any person, in good faith, carrying out, complying with, or attempting to comply with any order, rule, or regulation promulgated under this article may not be held liable for any charge, damage, debt or other liability as the result of the activity.