



COUNTY OF ALBEMARLE COMMUNITY DEVELOPMENT
WORK SESSION REPORT
ZONING FILL REGULATIONS

STAFF CONTACTS:

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BOARD OF SUPERVISORS DATE:

September 17, 2025

SUBJECT: Work session to discuss potential zoning ordinance regulations for clean earth and inert waste fill.

ORIGIN: On June 5, 2024, the Board adopted a resolution of intent to amend the zoning ordinance provisions for clean earth fill and inert waste (fill) and established an engagement plan for the process of developing ordinance language.

BACKGROUND:

When the Board approved the current fill regulations on September 16, 2020, it asked for a review of their impact after implementation. On November 15, 2023, staff provided a program update and the Board agreed that staff should engage with interested parties and generate recommendations for amendments to the regulations.

In August 2024, the Fill Ordinance project was launched on Engage Albemarle, where visitors could find information, take a survey, and ask questions. In May 2025, staff shared several resources with interested parties, including a draft ordinance on zoning fill regulations. Interested parties include individuals from Engage Albemarle who asked to be on the mailing list, applicants for permits to fill since 2024, numerous local community partners, Rivanna Solid Waste Authority, the University of Virginia, Thomas Jefferson Planning District Commission, surrounding localities and relevant County staff.

Staff received comments from interested parties through Engage Albemarle and other sources (Attachments A3, A4, and A5). Key community comments and concerns include:

- Fill sites should not be allowed if access is through residential streets, as this disrupts neighborhoods, creates safety and health risks, damages roads, harms the environment, and lowers residents' quality of life.
- Fill sites should not be allowed if access is by private easement shared by other properties; they should only be permitted where the fill site owner fully owns the access.
- Fill sites should not be allowed on properties under conservation easements.
- Fill activity should never last longer than one year, even with a special exception.
- Proper disposal of material is an important part of development and redevelopment in the area.
- Exemptions should be considered for farmers who are improving their land without harming the environment.
- Clean fill and inert waste fill on agricultural or forestry land should be exempt from regulation.
- Asphalt should not be allowed as inert waste fill.

Staff met several times with the Farm Bureau, which believes farming and forestry should be exempt from this ordinance. Homeowners and neighbors in close proximity to fill projects wish to restrict the size and duration of such projects.

PROPOSAL:

Before finishing the current draft ordinance, staff reviewed fill regulations from 23 localities (Attachments A6 and A7). All allow fill when related to development of an approved building permit, site plan, or subdivision plat. Of the 23, 12 address fill in their zoning ordinance and 11 do not. About half of the 12 with regulations include performance standards. Nine of the 12 allow some fill by-right, and of those, six also allow fill by legislative approval (such as a special use permit, conditional use, or special exception). Three only allow fill through legislative approval. In James City County, Loudoun County, and New Kent County, by-right fill is limited to agricultural uses like farm ponds or field leveling.

Resident complaints show that the main public impact from fill operations is truck traffic, especially when trucks use neighborhood subdivision streets. Other common concerns are how long fill operations last, and noise or other impacts when setbacks are not followed.

Fauquier and Prince William counties are often seen as having the best examples of regulations. Our current zoning fill regulations include many of Fauquier County's standards, such as limits on height, setbacks, and minimum lot size. Of all the localities reviewed, only Prince William County directly regulates truck traffic. Their regulations allow clean earth fill on any lot size in the Agriculture district, with truck deliveries up to 15 per day or 300 per year by-right; more than that requires a special use permit. Their enforcement staff, however, say this limit is hard to enforce.

Existing zoning regulations relating to fill are found in Attachment A1 and the draft fill ordinance is found in Attachment A8. Attachment A10 provides a comparison of the existing and proposed fill regulations. Staff will focus on three main areas: access roads, the agricultural exemption, and the special use permit requirement.

Fill Activity Access Road

We currently allow fill activity to directly access a public road or a private road. The specific requirements include the following:

1. Virginia Department of Transportation approval of the entrance onto the highway.
2. If a privately owned road is used, the applicant must:
 - a. Demonstrate the access is adequate to accommodate vehicles up to 56,000 pounds.
 - b. Alternatively, the applicant may increase the vehicle weight up to 80,000 pounds if the surface is adequate and the access meets Sec. 4.6.6 (maximum 6% grade, 10-foot-wide travel way, a rectangular clear zone of 10 feet wide and 14 feet high).

Staff recommends that fill sites have direct access to a public road classified by VDOT as a collector or arterial (Attachment A9). Local subdivision roads do not qualify. Collectors carry traffic between local roads and arterials, and arterials carry traffic between collectors and interstates. If a property receiving fill (that isn't exempt) does not have direct access to a collector or arterial road, staff recommends requiring a special use permit. This would allow more extensive public input and ensure that potential impacts on nearby properties and the surrounding area are more broadly considered.

Agricultural Exemption

Staff recommends creating an exemption and modified regulations for short-term clean earth fill or borrow activities when used for agricultural activity as defined by Section 3.1, such as building farm ponds or leveling fields. To qualify for this exemption, staff recommends the following requirements:

1. The parcel, including any adjoining parcels under the same ownership or management, is zoned Rural Areas and is an aggregate of at least 21 acres.
2. Access to the fill site must be either directly from a public road or from a private access where the owners give their approval. Using a private access road that serves other properties without those owners' consent is not allowed.
3. Trucks involved in the fill or borrow do not exceed more than 15 truck round trips to the site per day. One "truck round trip" is one truck entering and exiting the site. This regulation is based on the number of truck trips without regard to whether they are uniquely different trucks or not. And
4. Fill activity does not last longer than 30 days in a rolling calendar year that begins the first day of fill.

Staff recommends this use of fill serving an agricultural activity comply with all regulations of Section 5.1.28 except the following:

- a. Setback from fill activity (except for access) – Sec. 5.1.28(E)(6)
- b. Setback for fill activity access – Sec. 5.1.28 (E)(7)
- c. Maximum fill area – Sec. 5.1.28(E)(9)
- d. Limits of fill – Sec. 5.1.28(E)(10)
- e. Hours of operation – Sec. 5.1.28(E)(13) is modified to allow fill on Saturdays. Work may occur Monday–Saturday, 7:00 a.m.–7:00 p.m.
- f. Requirement for access from the fill area directly to a collector or arterial – Sec. 5.1.28(E)(14)
- g. Performance bond – Sec. 5.1.28 (E) (17)
- h. Plan or narrative – Sec. 5.1.28(F)(2)
- i. Any fill activity larger than 10,000 square feet must follow erosion and stormwater management requirements in Chapter 17, the Water Protection Ordinance – Sec. 5.1.28(F)

The Farm Bureau has asked that the Board consider these additional provisions and exemptions for fill related to agricultural activity:

1. Fill activity access: *Exemption from the requirement for direct access to a public road or owners' approval for use of a privately maintained road.* There are many farms that are directly accessed by privately maintained roads in the County instead of public roads. Agricultural activity associated with farms can routinely generate truck traffic just as a fill activity generates truck traffic. Staff is concerned about adding even short-term truck traffic to a privately maintained road unless those with the right to use the road give their approval. The road access requirement is eligible for waiver through a special exception that would include review of the adequacy of the road and impact on others using the road.
2. Numbers of truck trips per day: *Increase the number of allowed truck round trip per day from 10 to 15.* The Farm Bureau noted that the allowance for more truck trips per day can reduce the time needed to complete the fill activity, thereby reducing the duration of impact on neighbors. Staff supports this request and notes that 15 truck round trips per day is consistent with Prince William County's provision for by-right fill activity.

3. Duration limit of 30 days in a rolling calendar year: The Farm Bureau suggests 60 days because many agricultural engineering activities take longer than 30 days. Staff is proposing a short-term agricultural exemption to support farming needs while also limiting negative impacts on neighbors.

Special Use Permit versus Special Exception

Staff recommends that changes to key requirements, such as duration of activity and fill activity road access, should require a special use permit instead of a special exception. All other regulations under Section 5.1.28 may still be modified through a special exception process.

The recommendation for a special use permit is based on the following:

- A special use permit process involves a broader public process with a community meeting and two public hearings, giving those affected more opportunity to provide input.
- A special exception is a limited to technical review, while a special use permit is reviewed against four broader criteria: no substantial detriment, character of the nearby area is unchanged, harmony, and consistency with the comprehensive plan.
- The Board may place conditions upon a special exception that address the impacts of the modification from the technical requirement. However, conditions on a special use permit may be broader, addressing impacts of the use to protect public health, safety or welfare.

RECOMMENDED ACTION:

Staff requests guidance from the Board of Supervisors on the following questions:

1. Does the Board support an exemption for agricultural use? If so, does the Board support the specific proposed exemptions and modification?
2. Does the Board support limiting by-right fill activity (that does not fit within an exemption), to property with direct access to a public road classified by the Virginia Department of Transportation as a collector or arterial?

ATTACHMENTS:

Att. A1 – Existing Zoning Fill Regulations
Att. A2 – Resolution of Intent
Att. A3 – Engage Albemarle Midway Report
Att. A4 – Engage Albemarle Survey Responses
Att. A5 – Email Input
Att. A6 – Survey Locality Fill Regulations
Att. A7 – Locality Research Summary
Att. A8 – Draft Fill Regulations
Att. A9 – VDOT Road Classification List
Att. A10 – Comparison Existing and Proposed Fill Regulations