

Attachment C

Memorandum on fill and waste regulations

Existing Fill and Waste Regulations

Fill and waste areas are permitted in all zoning districts. Fill and waste areas are only for the disposal of soil or inert materials generated off-site. This allows materials such as concrete, asphalt, bricks and stone to be disposed of. Metal may be included in the material only if it is encased in concrete. Other types of construction debris are not permitted in fill and waste areas. Fill and waste regulations were added to the zoning ordinance in 1983 and most recently amended in 2002.

The regulations are summarized below:

- Addresses the placement of materials to prevent ponding of water,
- Prohibits fill in the floodplain,
- Requires reclamation including covering fill and waste material with two feet of clean fill,
- Allows for a bond to be required,
- Requires a Water Protection Ordinance permit if the area disturbed exceeds 10,000 square feet,
- Requires vehicles transporting material to secure the material and prevent deposition on public streets,
- Requires dust treatment and allows fencing to be required,
- Limits hours for “industrial-type power equipment” to 7:00 a.m to 9:00 p.m.,
- Requires lateral support to be maintained,
- Requires activity to be completed within one year unless an extension is granted,
- Allows a contract with VDOT to be used in lieu of a plan or narrative.

When fill and waste is generated by a County approved project, demolition or grading, the disposal of the material is included in the Erosion and Sediment Control permit associated with the demolition or grading. The result of this is that if the fill and waste activity is disturbing less than 10,000 square feet it is addressed by an Erosion and Sediment Control permit. If the fill and waste is generated by a project outside of the County an Erosion and Sediment Control permit is required only if the area disturbed is more than 10,000 square feet.

Fill and waste activities are not regulated if they are associated with agricultural operations. Based on current research, the County has limited, if any, authority to regulate fill and waste associated with agriculture. This will be confirmed during the review of any zoning text amendment.

Comprehensive Plan

Fill and waste activities occur in both the Rural Area and Development Area. Fill and waste is primarily generated by activity in the Development Area. Fill and waste activities impact many objectives and strategies of the Comprehensive Plan such as:

- Respecting terrain and careful grading and re-grading of terrain,
- Protecting the reservoir watershed,
- Ensuring that there is sufficient land to accommodate future business and industrial growth,

- Reducing the County's carbon footprint,
- Protecting air quality,
- Protecting critical slopes in the Rural Area,
- Promoting economic development,
- Promoting agriculture.

Issues to consider during review

The current regulations for fill and waste address the erosion and sediment control aspects of the activity. However, staff has identified impacts that are not addressed by current regulations. Staff has identified some issues that should be considered during the review of the zoning text amendment:

- Currently fill and waste may be located on critical slopes in the Rural Area,
- Currently fill and waste may be located within stream buffers,
- Hours of operation are limited only to “industrial-type power equipment,” and this term is not defined,
- No regulations exist to address the volume or hours of truck traffic,
- Current regulations discourage placement of fill in the Development Area,
- Fill and waste may result in the loss of agricultural land,
- Exemptions for fill and waste are allowed for bona fide agricultural activity. No mechanism exists to define bona fide agricultural activity or to ensure that the fill and waste activity is ultimately used for bona fide agricultural activity.

These issues are not an exhaustive list of what should be considered during the review of the zoning text amendment. They are provided only as examples of the character of the issues that need to be addressed. Any change to the Zoning Ordinance must reflect the need to provide for the efficient disposal of fill and waste, which is necessary for the orderly development of the County.