

Attachment D

Existing Ordinances

3.1 DEFINITIONS

The following definitions shall apply in the administration of this chapter:

Fill area or waste area. "Fill area" or "waste area" means a location at which soil or inert materials is placed on a site other than the site where the material was excavated or removed. The placement of soil or inert materials as necessary to establish a permitted use on the parcel or development from which it was excavated shall not be considered a fill area or a waste area.

Inert materials. "Inert materials" means solid materials that are physically, chemically and biologically stable from further degradation and considered to be nonreactive, including rubble, concrete, bricks, broken bricks and blocks, and asphalt pavement.

4.3.1 FILL AREAS, WASTE AREAS

Fill and waste areas shall be permitted in all zoning districts. Fill and waste activities shall be permitted only in accordance with section 5.1.28 of this ordinance.

5.1.28 BORROW, FILL OR WASTE AREAS

a. Each borrow, fill or waste area shall be subject to the following:

1. Each active borrow, fill or waste area shall be shaped and sloped so that no undrained pockets or stagnant pools of water are created to the maximum extent reasonably practicable as determined by the program authority. All undrained pockets and stagnant pools of water resulting from drainage shall be treated as required by the Virginia Department of Health to eliminate breeding places for mosquitoes and other insects.
2. No fill or waste area shall be located either within the flood hazard overlay district, except as authorized by section 30.3 of this chapter, or in any stream buffer area as defined by Chapter 17 of the Code of Albemarle. (Amended 10-3-01; 7-3-02)
3. Each fill or waste area shall be only for the disposal of soil or inert materials. The disposal of any other materials in a fill or waste area is prohibited.
4. Each borrow, fill or waste area shall be reclaimed within seven (7) days of completion of the borrow, fill or waste activity, or such later time authorized by the program authority for reclamation activities of a seasonal nature. Reclamation shall include, but not be limited to, restoring the area so that it approximates natural contours; shaping and sloping the area to satisfy the requirements of subsection (a)(1); covering the area with clean fill to a minimum depth of two (2) feet in order to allow for permanent stabilization and reclamation; and establishing a permanent vegetative ground cover; provided that the program authority may reduce the minimum depth of clean fill to one (1) foot if the area is unlikely to be redeveloped.

5. The zoning administrator, or the program authority for those borrow, fill or waste areas subject to subsection (b), may require the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney, to ensure that measures could be taken by the county or the program authority at the owner's expense should he fail, after notice is given to perform required reclamation work specified in the notice. The amount of the bond or other surety shall be based on unit pricing for new public or private sector construction in Albemarle County, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the estimated cost to initiate and complete the reclamation of the borrow, fill or waste area, and to comply with all other terms and conditions of the plan or narrative required by subsection (b). If reclamation work is required to be taken by the county or the program authority upon the failure of the owner to do so, the county or the program authority may collect the reasonable cost of the work directly from the owner, to the extent that the cost exceeds the unexpended or unobligated amount of the surety. Within sixty (60) days after the reclamation work is completed and inspected and approved by the county engineer, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner.

b. If the aggregate area of a borrow, fill or waste activity will be greater than ten thousand (10,000) square feet, then, as part of any permit issued pursuant to section 17-207 of the Code of Albemarle, the program authority shall first approve a plan or a narrative for such activity that satisfies the requirements of subsection (a) and the following:

1. All inert materials shall be transported in compliance with section 13-301 of the Code of Albemarle. Before a transporting vehicle leaves the parcel or parcels on which the borrow, fill or waste area is located, it shall be cleaned so that no inert materials outside of the vehicle's load-bed can be deposited on a public street.

2. The borrow, fill or waste area and the access roads thereto shall be treated or maintained to prevent dust or debris from blowing or spreading onto adjacent properties or public streets. Depending on the anticipated intensity and duration of the activity and the character of the development of adjoining properties, the program authority may require setback, fencing and landscaping requirements as deemed appropriate, but which shall not exceed the requirements of sections 30.4.6, 30.4.7 and 30.4.9 of this chapter.

3. Borrow, fill or waste activity involving industrial-type power equipment shall be limited to the hours of 7:00 a.m. to 9:00 p.m., except in cases of a public emergency declared pursuant to section 2-1003 of the Code of Albemarle.

4. Borrow, fill or waste activity shall be conducted in a safe manner that maintains lateral support, in order to minimize any hazard to persons, physical damage to adjacent land and improvements, and damage to any public street because of slides, sinking, or collapse.

5. The placement of fill or waste shall be completed within one (1) year of its commencement, except for reclamation activities and any other activities associated with the final stabilization of the area. The program authority may extend the date of completion upon the written request of the applicant, demonstrating that factors beyond the control of the applicant prevented the

completion within the one-year period. The program authority may then extend the permit for a period of time that, in its sole discretion, is determined adequate to complete the work.

6. In lieu of a plan or narrative, the program authority may accept a contractual agreement between the Virginia Department of Transportation and its contractor for a public road project; provided that the program authority determines that the agreement satisfies at least to an equivalent extent the requirements and intent of this section.