COUNTY OF ALBEMARLE PLANNING
STAFF REPORT SUMMARY

Proposal: TA-2026-00001 Fill Regulations	**Staff:** William D. Fritz, AICP
Planning Commission Public Hearing: October 13, 2026	**Board of Supervisors Hearing:** November 4, 2026
Proposal: Update the existing fill regulations for fill activity.	
Factors Favorable: 1. Revises performance standards to minimize impacts on surrounding property. 2. Consistent with the strategic plan. 3. Consistent with the comprehensive plan.	**Factors Unfavorable:** 1. None identified.
RECOMMENDATIONS: Staff recommends that the Planning Commission recommend approval of the proposed zoning text amendment.	

STAFF CONTACT: William D. Fritz, AICP
PLANNING COMMISSION: October 13, 2026
BOARD OF SUPERVISORS: November 4, 2026

PETITION: TA-2026-00001 Fill Regulations

ORIGIN: On June 5, 2024, the Board of Supervisors adopted a resolution of intent to amend the zoning ordinance regulations for fill activity (Attachment 1).

PROPOSAL: The proposed ordinance amends the regulations associated with fill activity. Some of the significant changes include:

- Amendments to definitions and regulations for inert materials to follow State regulations.
  - Adds crushed glass, porcelain, and similar non-biodegradable construction materials as permitted material
  - Retains asphalt pavement as a permitted material
  - Allows inert material to be used by-right as a substitute for conventional aggregate for activity such as road building and stabilization of areas used in forestry

- Clarification of what activity is exempt from the regulations to make clear that routine maintenance and defined agricultural activity is not subject to the regulation.

- Creation of short duration fill activity.
  - Establishes ownership and acreage requirements
  - Limits on use of inert fill
  - Limit of 60 days
  - Day and hour limit of Monday-Saturday 7am-7pm
  - Not subject to setback requirements
  - Not subject to maximum fill area due to limited time duration

- New regulations for fill activity other than short duration fill activity.
  - Limits vehicle trips based on category of road accessed
  - Requires special use permit if on minor collector/local street or privately maintained road, street or shared driveway
  - Limit of 6 months
  - Day and hour limit of Monday-Friday 7am-7pm

Attachment 2 provides the draft revised ordinance. Attachment 3 provides the draft revised ordinance with staff comments describing the proposed changes.

PUBLIC PURPOSE TO BE SERVED: Updating the fill regulations will address issues that have been identified after the last revision of the regulations in 2020. The revised regulations directly address truck traffic, duration of fill activity, and attempt to facilitate fill operations that support agriculture. The revised regulations have been reformatted to make interpretation and enforcement easier.

BACKGROUND: The Board of Supervisors adopted the current fill regulations on September 16, 2020. At the time of adoption, the Board also requested a review of the impact of those regulations. On November 15, 2023, the Zoning Administrator and Director of Community Development provided a program update to the Board. This included information about

applications and complaints received to-date, as well as suggestions for ordinance amendments received in an October 2023 community survey. The Board directed staff to engage with interested parties and generate modifications to the regulations.

Following further engagement with members of the public and local interest groups, the Board held a work session on September 17, 2025 to review a draft ordinance. Comments from the Board during that work session have been incorporated into this draft.

On June 15, 2026 a Community Meeting was held. Comments received during this meeting and subsequent to the meeting have been considered in drafting the proposed ordinance.

The proposed ordinance has also been drafted with consideration of:

- § 15.2-2288 of the Code of Virginia. Included as Attachment 4.
- An opinion of the Attorney General. Included as Attachment 5.
- Title 10.1 of the Code of Virginia and the administrative code it authorizes, which is administered by the Virginia Waste Management Board. The regulations may be found in 9VAC20.

The County has received comments questioning the ability of the County to adopt regulations that limit fill activity, particularly activity that may be associated with agricultural activity.

§ 15.2-2288 defines what qualifies as an agricultural or silvicultural activity and specifically states that is not "the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm". The Attorney General has written an opinion that localities can regulate the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm.

The proposed ordinance directly addresses this issue by including as an exemption in Section 5.1.28(c)(3)

> Importing lime and fertilizer to amend the soil as part of an agricultural operation or the storage, use and disposal of clean earth fill, or inert waste fill generated on the farm.

In developing the proposed regulations consideration has been given to certain activities that are exempted in the Virginia Administrative Code for the disposal of materials. Those activities are exempted provided no open dump, hazard, or public nuisance is created. 9VAC20-81-10 defines nuisance as:

> "Nuisance" means an activity that unreasonably interferes with an individual's or the public's comfort, convenience, or enjoyment such that it interferes with the rights of others by causing damage, annoyance, or inconvenience.

Staff's opinion is that the proposed ordinance is consistent with the Code of Virginia, the Virginia Administrative Code and are designed to prevent the creation of an open dump, hazard, or public nuisance.

Staff notes that the Board of Supervisors directed staff to remove asphalt as a type of permitted fill material. The Virginia Administrative Code permits the disposal of asphalt pavement and

road pavement (9VAC20-81-95) provided that they do not create an open dump, hazard, or public nuisance. Staff's opinion is that the Board may restrict the use of asphalt if it creates an open dump, hazard, or public nuisance.

ANALYSIS OF THE PROPOSED ZONING TEXT AMENDMENT

Zoning Ordinance section 33.6(B) establishes factors to be reasonably considered by the Planning Commission and Board of Supervisors in the review of ZTAs. Each factor is reviewed below:

(i) the existing use and character of property

The proposed text amendment considers the use and character of property by including regulations that complement agricultural land use and take into consideration the relationship of property to different categories of roads. The proposed amendment includes separate provisions for short-term operations, which better facilitate activity that aligns with existing agricultural uses. Access-related provisions ensure the quantity of truck traffic is aligned with the use and character of the access road.

(ii) the comprehensive plan

This text amendment supports the objective to "increase the use of infill [and] higher-density development" in the Development Areas (DALU Obj. 1) by facilitating the responsible disposal of clean earth and inert waste fill where appropriate. The amendment also "support[s] local agricultural and forestry production" in the Rural Areas (RALU Obj. 4) by allowing for the routine stabilization and enhancement of existing pasture and cropland.

(iii) the suitability of property for various uses

Distinctions in the regulations between rural and development zoning districts and distinctions between categories of access road ensure the permitted activity matches the suitability of the property for fill activity.

(iv) the trends of growth or change

Development in the Development Areas will increasingly rely on infill development, which requires the safe disposal or use of concrete and other inert materials. This text amendment facilitates infill by making it easier to dispose of materials generated in the Development Areas within the Development Areas and allowing for fill material to be used for efficient use of the Development Areas.

Some portions of the Rural Area have significant residential development. The proposed text amendment regulates the volume of truck traffic based on road designation, so roads with the lowest category, which serve residential development, have the most restrictions on truck traffic.

(v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies

In accord with the growth management policy, this text amendment aims to prohibit fill activity from being conducted in such a manner that would prevent rural area land from being farmed and development area land from being developed. The text amendment is intended to facilitate the responsible placement of fill that is necessary for the orderly development of the County.

(vi) the transportation requirements of the community

The current ordinance and the proposed text amendment both require that VDOT must first approve the activity's entrance onto a public road, to ensure that turning trucks do not endanger other vehicles. Furthermore, limits on the number of truck trips will reduce truck traffic primarily in the rural area, where roads may not be adequate and would require increased maintenance.

(vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services

This text amendment does not impact public services.

(viii) the conservation of natural resources

The current ordinance and the proposed text amendment both prohibit fill activity on steep slopes, hydric soils, and riparian buffers.

(ix) the preservation of flood plains

The current ordinance and the proposed text amendment both prohibit fill activity inside the 100-year floodplain.

(x) the protection of life and property from impounding structure failures

This text amendment does not impact impoundment structures.

(xi) the preservation of agricultural and forestal land

Permitting fill activity for the routine establishment and enhancement of pasture and cropland facilitates the maintenance of agriculture on agricultural land. The limitations on placement of inert materials helps to minimize the loss of agricultural and forestal land.

(xii) the conservation of properties and their values

This text amendment aims to promote the conservation of agricultural properties by allowing them to stay in agriculture and for short duration operations to take place to facilitate agriculture. Regulations based on access road categories aim to preserve property values on adjacent properties.

(xiii) the encouragement of the most appropriate use of land throughout the County

This text amendment conforms with the growth management policy by encouraging agricultural fill activities in the rural area and development activities in the development area.

(xiv) equity

This text amendment does not impact equity.

Strategic Plan: Safety & Wellbeing: Nurture a safe and healthy community.

This ordinance will be reviewed by the three (3) criteria previously established by the Board for amendments:

Administration/Review Process: Staff anticipates that specifying separate regulations for short-term agricultural operations will slightly reduce the number of special exception applications received. The proposed regulations are easier than the current regulations to interpret and enforce.

Housing Affordability: This text amendment does not impact housing affordability.

Implications to Staffing/Staffing Costs: The proposed regulations can be enforced by existing staff and are not anticipated to affect staffing or staffing costs.

SUMMARY

Staff finds the following factors favorable to this request:

1. Revises performance standards to minimize impacts on surrounding property.
2. Consistent with the strategic plan.
3. Consistent with the comprehensive plan.

Staff finds the following factors unfavorable to this request:

1. None identified.

RECOMMENDED ACTION

Staff recommends that the Planning Commission recommend approval of the proposed zoning text amendment.

ATTACHMENTS

Attach. 1: TA-2026-00001 Fill Regulations – Resolution of Intent
Attach. 2: TA-2026-00001 Fill Regulations – Proposed Ordinance
Attach. 3: TA-2026-00001 Fill Regulations – Proposed Ordinance with Annotations
Attach. 4: TA-2026-00001 Fill Regulations – § 15.2-2288 of the Code of Virginia
Attach. 5: TA-2026-00001 Fill Regulations – Attorney General Opinion
Attach. 6: TA-2026-00001 Fill Regulations – Public Comment