



**Council**

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**ORDINANCE 2021 - 12**

**AN ORDINANCE AMENDING THE ZONING CODE TO INCLUDE SECTION 5.12 FILL STANDARDS**

**WHEREAS**, it sometimes becomes necessary to amend the Port Royal Zoning Code to better meet the needs of the Town and its citizens, and

**WHEREAS**, Council finds these changes in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Town of Port Royal, duly assembled and with authority of same that the following item be changed as listed:

Amend Article 5 Supplemental to Zones to include section 5.12 Fill Standards

Sections:

5.12.10 Purpose

5.12.20 Fill Restrictions

5.12.30 Administration

5.12.10 Purpose

To promote public health, safety and general welfare by preserving Port Royal's natural floodplain and drainage patterns to minimize the impacts of development within the floodplain on neighboring properties.

5.12.20 Fill Restrictions

The following restrictions apply to all lands located at an elevation of 10 feet above sea level or less (North American Vertical Datum of 1988):

- A. The amount of allowable fill must not increase the existing natural grade of the property by more than three vertical feet under the area of development.
- B. The only portion of the property that may be filled is the area underneath the elevated structure, together with driveway and walkway access to the structure. Fill shall taper at a maximum slope of 1:3 from a five foot perimeter around the outer foundation to the existing site elevation.
- C. If the lot area is 20 acres or more, in no case shall the maximum lot area of the property filled exceed 33.33 percent of the total area of the lot.
- D. If a new or reconstructed structure is to be elevated utilizing fill material, any required building elevation standard exceeding the three-foot fill limitation as referenced in section 5.12.20.B must be achieved through the use of elevation foundations, piers or similar structural elevation techniques that are in compliance with then-applicable county building code requirements as certified by a structural engineer.
- E. Non-conforming structures may utilize fill to expand up 15% of the gross floor area in accordance with Division 6.23 of the Port Royal Code.
- F. Fill is allowed for property maintenance. For purposes of this subsection, the term “property maintenance purposes” means landscaping, gardening or farming activities, erosion control, and filling in of washed-out sections of land. Property maintenance purposes shall only include the placement of such quantities of fill not to exceed the limitations specified herein and that do not inhibit the free flow of water. Said limited amounts of fill for property maintenance purposes need not be compensated by an equivalent amount of excavation area as specified in 5.12.20.C. Exemptions from fill requirements for erosion control purposes must be accompanied by a stabilization plan and narrative approved by the Town's stormwater consultant providing reasoning why fill is necessary to solve an erosion issue.
- G. Filling on public property is prohibited with the exception of property maintenance purposes of public facilities, upon approval of the stormwater consultant coordinating with the appropriate department head or governmental agency. Exemptions for Public Improvements: Public roads, pump stations, stormwater management improvements, levees, and other public facilities that are necessary to provide for health, safety, and public welfare needs are exempt from the requirements of this section.
- H. Any fill project must be designed to limit negative impacts upon adjacent and affected upstream and downstream property owners during flood events to the maximum extent practicable.
- I. The provisions of this section shall not apply to redevelopment areas identified in Map A.
- J. No fill project shall fill in or obstruct any local drainage channels without an alternative drainage plan design and shall limit soil erosion and water runoff onto adjacent properties to the maximum practicable extent, and in compliances with the NPDES standards and with the Beaufort County Manual for Stormwater Best Management and Design Practices.

K. All fill material that is brought in from offsite and will be placed at elevations below the seasonal high water table or within 1ft above the seasonal high water table will be required to meet the following clean fill requirements. Offsite soils brought in for use as fill shall be tested for Total Petroleum Hydrocarbons (TPH), Benzene, Toluene, Ethyl Benzene, and Xylene (BTEX) and full Toxicity Characteristic Leaching Procedure (TCLP) including ignitability, corrosivity and reactivity. Fill shall contain a maximum of 100 parts per million (ppm) of total petroleum hydrocarbons (TPH) and a maximum of 10 ppm of the sum of Benzene, Toluene, Ethyl Benzene, and Xylene and shall pass the TCPL test. Determine TPH concentrations by using EPA 600/4-79/020 method 418.1. Determine BTEX concentrations by using EPA SW-846. 3- 3 Method 5030/8020. Perform TCLP in accordance with TCLP from a composite sample of material from the borrow site, with at least one test from each borrow site. Within 24 hours of conclusion of physical tests, submit 3 copies of test results, including calibration curves and results of calibration tests. Fill material shall not be brought on site until tests have been approved by the Town's stormwater consultant.

L. Modulation from Fill Requirements: The Director may grant flexibility from the fill requirements in the following cases:

1. Lots 3 acres or less and all single-family residential lots with sloping terrain may provide greater than 3 feet of fill to provide a level foundation as long as the average fill does not exceed 3 feet.
2. Where no other suitable site configuration is practicable, depressions, sinkholes, and borrow pits that are not part of the natural drainage of the site that are not delineated as tidal or non-tidal wetlands may be filled to provide for a level foundation.
3. Single-family residential structures utilizing raised slabs with a masonry or concrete curtain wall may contain more than 3 feet of fill if it is limited to the footprint of the building.

#### 5.12.30 Administration

Fill activities in accordance with this section may be permitted upon approval by the Director. All fill application permits shall be valid for a period of six months from the date of issuance, may be renewed only upon filing of an application for renewal with the Planning and Zoning Department, and then may only be renewed upon a showing of demonstrated progress towards completion of the fill activity. All fill application permits must be accompanied by a detailed plan describing the area to be filled, the estimated amount of fill to be used and the purpose of the fill project. A professional engineer registered in the state must also submit elevation and topographic data illustrating changes in the topography and estimating impacts upon local flood flows. Except as provided in sections 5.12.20.F and 5.12.G, adjacent property owners shall be identified and notified of the fill project by the applicant with proof of notification provided to the Director.

Ordinance 2021-12

This Ordinance shall become effective immediately upon adoption by Council.

**REQUESTED BY:**

**APPROVED BY:**

\_\_\_\_\_  
Milton E. Willis  
Town Manager

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Joe DeVito  
Mayor

**ATTEST:**

Introduced: \_\_\_\_\_

\_\_\_\_\_  
Brooke Plank-Buccola  
Municipal Clerk

Final Reading: \_\_\_\_\_