CITY OF HARRISONBURG

July 22, 2025, City Council Meeting

Title
Consider Amendment to the Erosion Control and Stormwater Management Ordinance — Matthew Huston, Community Development

Summary
City Council enacted the current Erosion Control and Stormwater Management Ordinance on August 27, 2024. That ordinance allows a duplex residential structure to be regulated the same as a single-family detached residential structure in how they could comply with the Virginia Erosion and Stormwater Management Act (VESMA) through an "agreement in lieu of a plan." On March 13, 2025, the Virginia Department of Environmental Quality (DEQ) wrote a letter to the City with a finding that reference to duplex residential structures in the definition of "Agreement in lieu of a plan" in the City's Ordinance is inconsistent with § 62.1-44.15:33 of the Code of Virginia and 9VAC25-875-20 of the Virginia Administrative Code. Staff are recommending an ordinance amendment that strikes the reference to duplex residential structures from Ordinance Section 10-4-2.

Recommendation
Option 1. Adopt the amendment to the Erosion Control and Stormwater Management Ordinance.

Fiscal Impact
N/A

Context & Analysis
The Virginia Department of Environmental Quality (DEQ) regulates local Erosion and Stormwater Management programs under the Virginia Administrative Code. The most recent revision to the City's Erosion Control and Stormwater Management Ordinance was enacted August 27, 2024, at which time the City's Erosion and Sediment Control Ordinance and Stormwater Management Ordinance were combined into a single ordinance. At that time, staff recommended and City Council adopted a revision to allow a duplex residential structure to be regulated the same as a single-family detached residential structure in how they could comply with the Virginia Erosion and Stormwater Management Act (VESMA) through an "agreement in lieu of a plan." Staff's reasoning was that a duplex residential structure was essentially equivalent to a single-family

detached residential structure in size and scope of potential erosion and stormwater impact and that treating the two similarly would provide relief for developers of an individual duplex residential structure.

On March 13, 2025, the Virginia Department of Environmental Quality (DEQ) wrote a letter to the City Department of Community Development with a finding that the definition of "Agreement in lieu of a plan" in the City's Ordinance is inconsistent with § 62.1-44.15:33 of the Code of Virginia and 9VAC25-875-20 of the Virginia Administrative Code. This letter is attached.

DEQ found that: "The definitions of 'Agreement in Lieu of a Plan' in the VESMA and VESM Regulation do not include one (1) duplex residential structure; therefore, the Ordinance Section 10-4-2 is not consistent with the requirements for a locality that administers a Virginia Erosion and Stormwater Management Program (VESMP)." The letter goes on to say: "This letter serves as a notice for the City of Harrisonburg, as the VESMP, authority to revise the applicable ordinance to [be] consistent with the state's minimum standard or a more stringent ordinance as authorized in subsection A of § 62.1-44.15:33 of the Code of Virginia." In essence, state law allows a locality to adopt a more stringent ordinance but not a less stringent ordinance.

Staff are presenting an ordinance amendment that strikes the phrase "or one duplex residential structure" from Ordinance Section 10-4-2. The proposed amendment is attached.

Options

1. Adopt the amendment to the Erosion Control and Stormwater Management Ordinance.
2. Provide alternate direction.

Attachments

1. Current Ordinance Reflecting Recommended Amendments
2. Letter from the Virginia Department of Environmental Quality, dated March 13, 2025.