



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Ande Banks, City Manager  
From: Matthew Huston, City Engineer, Department of Community Development  
Date: August 13, 2024 (Regular Meeting)  
Re: Combined Erosion Control and Stormwater Management Ordinance

## **Summary:**

Erosion Control and Stormwater Management Ordinance	Title 10 Chapter 4 Title 10 Chapter 7
Purpose	Combine the provisions of the currently independent “Erosion & Sedimentation Control” and “Stormwater Management” ordinances, Title 10, Chapters 4 and 7, into a single ordinance regulating both functions.
Applicant	City of Harrisonburg
Staff Recommendation	Approval
City Council	August 13, 2024 (First Reading) Anticipated August 27, 2024 (Second Reading)

## **Background:**

The Virginia Department of Environmental Quality (DEQ) regulates local Erosion and Sediment Control (ESC) and Stormwater Management (SWM) programs under the Virginia Administrative Code. These programs are intended to address the impacts of land development both during and after construction. Though both these programs are also part of the City’s larger Municipal Separate Storm Sewer System (MS4) Program managed by the Department of Public Works, they remain independently managed and enforced by the Department of Community Development under ordinances separate from the MS4 program.

Several years ago, the General Assembly and the Governor approved a bill to combine the regulations governing ESC, SWM, and the Chesapeake Bay Preservation Act (Bay Act) into one regulation covering all three programs. The intent was to eliminate redundancy among the three independent regulations and to help alleviate the confusion present in regulating all three independently. As a result of the signed bill, DEQ was directed to revise the Virginia Administrative Code to eliminate the separate regulations in favor of a single combined regulation. That work was completed last year, and now DEQ has directed the regulated localities to follow suit and create a local combined ordinance. The combined regulations became effective on July 1, 2024. DEQ does not require localities to submit their ordinance for review prior to implementing them.

DEQ was directed to make no substantive changes to the requirements defined in the three previous sets of regulations. Therefore, the new combined regulations, and this proposed combined ordinance, would create no additional burden on development or on development plan review and enforcement through City processes.

**Key Issues:**

City staff is presenting to City Council a proposed new ordinance that combines the provisions of the currently independent “Erosion and Sedimentation Control” and “Stormwater Management” ordinances, Title 10, Chapters 4 and 7, into a single ordinance regulating both functions. This combined ordinance is proposed to replace the current Chapter 4 (Erosion & Sedimentation Control), and Chapter 7 (Stormwater Management) is proposed to be eliminated. This new ordinance is entitled “Chapter 4 Erosion Control and Stormwater Management.”

The proposed ordinance was developed from a model ordinance provided by DEQ for use by localities. Staff has modified the model to suit our individual program. For the most part, these modifications:

- Eliminated any reference to Bay Act requirements, as the City is not subject to those regulations, being outside of the Bay Act Protection Area.
- Inserted applicable City names, titles, etc. to refer to the proper authorities.
- Included or excluded optional sections in the model ordinance based on our specific programs.
- Modified certain sections to align with current City requirements for plan content, submission, fees, etc.
- Added, as directed by instructions in the model ordinance, Civil Penalties for non-compliance, and Hearings and Appeals sections, all based on our current ordinances.

As stated, this combined ordinance would create no new requirements nor additional burdens on the developers, engineers, or review processes already in place. The proposal is simply to combine the provisions of two code sections into one and to eliminate redundancies between the two.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Repeal Title 10 Chapter 4 Erosion and Sediment Control, adopt new Title 10 Chapter 4 Erosion Control and Stormwater Management, and repeal Title 10 Chapter 7 Stormwater Management; or
- (b) Repeal Title 10 Chapter 4 Erosion and Sediment Control, adopt new Title 10 Chapter 4 Erosion Control and Stormwater Management, with modifications, and repeal Title 10 Chapter 7 Stormwater Management;

**Community Engagement:**

DEQ and the State Water Control Board led public engagement as part of their process to consolidate the erosion control and stormwater management regulations. The board was required to (i) provide a Notice of Intended Regulatory Action, (ii) form a stakeholders advisory group, (iii) provide for a 60-day public comment period prior to the board's adoption of the regulations, and (iv) provide a written summary of comments received and responses to comments prior to adopting of the regulation.

In July, staff sent a memorandum and the text of the proposed ordinance to the local consulting engineering and developer community to communicate the proposed change and solicit open feedback on how the ordinance would affect them. The memorandum is attached.

**Recommendation:**

Staff recommends alternative (a) approval of the Ordinance amendments.

**Attachments:**

- Proposed Erosion Control and Stormwater Management Ordinance
- Memorandum: New VESMP Regulations and City Erosion Control and Stormwater Management Ordinance

**Review:**

N/A