

BOARD OF ALDERMEN

ITEM NO.: **D(4)**

AGENDA ITEM ABSTRACT
MEETING DATE: MAY 20, 2008

TITLE: Update on Jordan Lake Rules

DEPARTMENT: PLANNING	PUBLIC HEARING: YES __ __ No <u>X</u> __
ATTACHMENTS: A. Resolution B. Staff memo C. State response to Town comments	FOR INFORMATION CONTACT: RANDY DODD, 918-7326

PURPOSE: Over the past several years, Town and Triangle J Council of Governments staff have updated the Board of Aldermen several times on proposed rules to reduce nitrogen and phosphorus inputs to Jordan Lake. The purpose of this agenda item is to provide an update on the status of rulemaking subsequent to public hearings held in 2007 and resulting State Division of Water Quality and Environmental Management Commission deliberations.

INFORMATION: Public hearings were held in July 2007 in Carrboro and Elon College. Oral and written comments were received from all interested parties, including the Town of Carrboro. The Hearing Officers began deliberations over the rules in late August 2007. Due to the scope and complex subject addressed by the rules, a total of 14 meetings were held to fully evaluate the comments and issues and to reach consensus on a set of recommended revisions. This process continued into April 2008. The Jordan Rules Hearing Officers have reviewed and weighed input from the stakeholder teams, potentially affected parties, local governments, legislators, concerned citizens, interest groups and organizations, and staff. It is the recommendation of the Hearing Officers and the full Environmental Management Commission (unanimously) that the rules be adopted with changes noted, and be filed as permanent rules with the Rules Review Commission. The proposed effective date is April 1, 2009. In making these recommendations, the Hearing Officers have considered the requirements pursuant to various NC General Statutes, as well as the verbal and written comments received. Those positions and recommendations, along with a historical summary, are detailed in the attached staff memo, with more extensive reports available at <http://h2o.enr.state.nc.us/nps/JordanNutrientStrategy.htm>. The rules will next be considered by the Rules Review Commission (RRC) on June 19 for approval prior to the January 2009 Session of the General Assembly. Requested effective date is April 1, 2009; however, it is possible that legislative review could be required, which would delay the effective date into the summer of 2009, assuming the rules are approved by the RRC. Several local governments in the Haw River watershed have hired legal counsel to approach the RRC in opposition to the rules.

The draft rules include 12 separate sections. Of these, the rules for stormwater management for existing development (.0266) are believed by Town staff to present the largest challenge to the Town. Assuming an effective date of April 2009, the urban stormwater compliance timeframe would require the Town to develop and submit a load reduction program plan to the State in 2011-2012, and begin implementing the program in 2012-2013.

FISCAL AND STAFF IMPACT: Receiving this report from staff has no immediate fiscal impact. Minimal or no fiscal impact is anticipated in FY 2008-2009; however it is anticipated that there could be a substantial fiscal impact beginning in 2011 and subsequent years pending final outcome of State rulemaking process. The EMC has asked the General Assembly to provide \$100M to local governments as financial assistance for implementation of the rules.

RECOMMENDATION: Staff recommends that the Board of Aldermen adopt the attached resolution (Attachment A) accepting the staff memo, and direct staff to provide a report in the fall/winter of 2008 on the State's continued consideration of these rules, and implementation recommendations, including potential land use ordinance updates and fiscal and staff impacts and options for financial planning.