

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF  
ALDERMEN'S REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF  
THE CARRBORO LAND USE ORDINANCE

Resolution No. 184/2009-10

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING MISCELLANEOUS REQUIREMENTS OF THE CARRBORO LAND USE ORDINANCE BY REVISING THE LIST OF INVASIVE PLANT SPECIES, ESTABLISHING REGULATIONS FOR ELECTRONIC GAMING OPERATIONS, AND MODIFYING PROVISIONS ASSOCIATED WITH MINOR SUBDIVISIONS, PERFORMANCE GUARANTEES, STORM WATER MANAGEMENT, AND MINIMUM LOT WIDTHS .

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with Carrboro Vision 2020 policies specified in 5.0, 3.1, 1.44, 5.23, and 1.42.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to serve as a leader in protecting the environment, to minimize the negative environmental impacts of development, and to maximize the efficiency of government operations.

Section 3. This resolution becomes effective upon adoption.

A RESOLUTION ADOPTING A  
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR  
REJECTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE  
ORDINANCE

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING MISCELLANEOUS REQUIREMENTS OF THE CARRBORO LAND USE ORDINANCE BY REVISING THE LIST OF INVASIVE PLANT SPECIES, ESTABLISHING REGULATIONS FOR ELECTRONIC GAMING OPERATIONS, AND MODIFYING PROVISIONS ASSOCIATED WITH MINOR SUBDIVISIONS, PERFORMANCE GUARANTEES, STORM WATER MANAGEMENT, AND MINIMUM LOT WIDTHS

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Town policies and regulations.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing regulations are appropriate.

Section 3. This resolution becomes effective upon adoption.

\*\* DRAFT 6-18-10 \*\*

AN ORDINANCE AMENDING MISCELLANEOUS REQUIREMENTS OF THE  
CARRBORO LAND USE ORDINANCE BY REVISING THE LIST OF INVASIVE PLANT  
SPECIES, ESTABLISHING REGULATIONS FOR ELECTRONIC GAMING OPERATIONS,  
AND MODIFYING PROVISIONS ASSOCIATED WITH MINOR SUBDIVISIONS,  
PERFORMANCE GUARANTEES, STORM WATER MANAGEMENT, AND MINIMUM  
LOT WIDTHS

**Section 1.** Appendix E-17, List of Invasive Plant Species, is amended to read as follows:

The following plant species shall be prohibited when complying with the shading and screening provisions of this chapter and shall not be shown on any plans submitted in support of a Land Use Permit application. Further information on invasive pest plants that applicants may wish to avoid may be found on the website for the North Carolina Native Plant Society.

Plant Type: A=Aquatic, H=Herbaceous, W=Woody Plant

Species (Latin)	Common Name	Type
<i>Ailanthus altissima</i>	Tree of Heaven	W
<i>Albizia julibrissin</i>	Mimosa	W
<i>Alliaria petiolata</i>	Garlic-Mustard	W
<i>Celastris orbiculatus</i>	Asian Bittersweet	W
<i>Eleagnus angustifolia</i>	Russian Olive	W
<i>Eleagnus umbellata</i>	Autumn Olive	W
<i>Hedera helix</i>	English Ivy	W
<i>Hydrilla verticillata</i>	Hydrilla	A
<i>Lespedeza bicolor</i>	Bicolor Lespedeza	W
<i>Lespedeza cuneata</i>	Sericea Lespedeza	H
<i>Ligustrum sinense</i>	Chinese privet	W
<i>Lonicera fragrantissima</i>	Bush Honeysuckle	W
<i>Lonicera japonica</i>	Japanese Honeysuckle	W
<i>Microstegium vimineum</i>	Japanese Stilt-grass	H
<i>Murdannia keisak</i>	Asian Spiderwort	H
<i>Myriophyllum aquaticum</i>	Parrotfeather	A
<i>Paulownia tomentosa</i>	Princesstree	W
<i>Phragmites australis</i>	Common Reed	H
<i>Polygonum cuspidatum</i>	Japanese Knotweed	H
<i>Pueraria montana</i>	Kudzu	H
<i>Rosa multiflora</i>	Multiflora Rose	W
<i>Salvinia molesta</i>	Aquarium water-moss	A
<i>Wisteria sinensis</i>	Chinese wisteria	W

**Section 2.** Carrboro Land Use Ordinance Section 15-15 is hereby amended to add the following definition:

(36.1) **ELECTRONIC GAMING OPERATION.** (See Section 15-180). Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, or cybercafés. This does not include any lottery approved by the State of North Carolina or any nonprofit operation that is otherwise lawful under State law (for example, church or civic organization fundraisers).

**Section 3.** Carrboro Land Use Ordinance Section 15-146, Table of Permissible Uses, is hereby amended to include "electronic gaming operations" as use # 6.150. Electronic gaming operations shall be permitted with a special use permit in the B-4 zoning district, and the Table of Permissible Uses is amended accordingly.

**Section 4.** The Carrboro Land Use Ordinance is hereby amended to add a new Section 15-180, "Electronic Gaming Operations," which reads as follows:

**Section 15-180 Electronic Gaming Operations.**

In addition to the regulations provided for elsewhere in this chapter, electronic gaming operations shall be subject to the following requirements:

(a) **Hours of Operation.** Electronic gaming operations may operate from 8:00 a.m. until 10:00 p.m., seven (7) days per week, but not at other times;

(b) **Spacing Requirements.**

- (1) Each electronic gaming operation must be a minimum of 500 feet from any building being used as a dwelling.
- (2) Each electronic gaming operation must be a minimum of 1,000 feet from any other electronic gaming operation.
- (3) For the purposes of this subsection, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling or other electronic gaming operation;

(c) All applicable State and local permits and business licenses must be issued to the applicant prior to the opening of the business; and

(d) If food and/or beverages are served, the establishment must meet any State requirements and the requirements of the Orange County Health Department.

**Section 5.** Subsection 15-15 (132) of the Carrboro Land Use Ordinance, the definition of the term "Subdivision, Minor," is amended to read as follows: "A subdivision of property located outside of the watershed districts that does not involve the creation of more than a total of four lots or the creation of any new public streets."

**Section 6.** Section 15-60 of the Carrboro Land Use Ordinance ("Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special use or Conditional Use Permits") is amended to read as follows:

(a) With respect to unsubdivided developments, in cases when, because of weather conditions or other factors beyond the control of the special or conditional use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the manager may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security satisfactory to the manager to ensure that all these requirements will be fulfilled within a reasonable period of time (not to exceed twelve months) determined by the manager. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause, the manager may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the property that is the subject of the permit.

(b) With respect to subdivided developments, the manager may authorize final plat approval and the sale of lots before all the requirements of this chapter (including approved plans) are fulfilled if the subdivider provides a surety bond, letter of credit, or other security satisfactory to the manager to ensure that all of these requirements will be fulfilled within a reasonable period of time after final plat approval (not to exceed twelve months) as determined by the manager. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause (by way of illustration without limitation, where it is sensible to delay the final coat of pavement of a street until heavy construction within the subdivision is essentially complete, or where completion of a bioretention area should be delayed until site disturbance is nearly finished), the manager may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the subdivision.

(c) The authorization provided to the manager under subsections (a) and (b) of this section shall also apply to fulfillment of additional requirements upon the special or conditional use permit recipient by the permit issuing board in accordance with Section 15-59 unless the board specifies a certain date by which or a schedule according to which such requirements must be met.

**Section 7.** Section 15-53 of the Carrboro Land Use Ordinance is amended to read as follows:

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security satisfactory to the administrator to ensure that all these requirements will be fulfilled within a reasonable period of time (not to exceed twelve months) determined by the administrator. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause, the administrator may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the property that is the subject of the permit.

**Section 8.** Subsection 15-263 of the Carrboro Land Use is amended by substituting the following new subsection (a) for existing subsections (a) and (b), redesignating subsection (c) as subsection (b), and redesignating subsection (c1) as subsection (c):

(a) The requirements of this section shall apply to developments to the extent provided in this subsection.

- (1) For purposes of this subsection, "impervious surface" means that portion of the development of a lot or tract that is covered by a surface or material that substantially or completely prevents rainwater from reaching and being absorbed into the underlying soil. Impervious surfaces include but are not limited to streets, driveways, sidewalks, parking lots, buildings, and other roofed, paved, or graveled areas. Wooden slatted decks and the water area of swimming pools are considered pervious, as are detention ponds and other ponds.
- (2) For purposes of this subsection, "net addition of impervious surface" shall be determined by subtracting the total square footage of impervious surface prior to commencement of construction authorized by a development permit from the total square footage of impervious that is proposed to be located on the development site when all construction authorized by the development permit (including all phases thereof) is completed. If the permit issuing authority reasonably concludes that a permit applicant is seeking or has sought separate permits (simultaneously or sequentially) for different components of what is demonstrably intended to be a single development in an attempt to stay below the impervious surface threshold that triggers the requirements set forth in this section, then the permit issuing authority shall treat such multiple applications as a single application for purposes of determining whether the requirements of this section are applicable.

- (3) All unsubdivided developments that involve a net addition of more than 5,000 square feet of impervious surface shall be subject to the requirements of this section, except that these requirements shall not apply if the total of the net addition of impervious surface area plus the previously existing impervious surface area on the lot does not exceed (i) six percent (6%) of the lot area within a B-5 or WM-3 zoning district, or (ii) for lots in all other zoning districts, the amount of impervious surface area permissible on lots within the C or WR zoning districts under subsection 15-266(b) of this part.
- (4) When land is subdivided, and the permit authorizing the subdivision does not itself authorize the net addition of more than 5,000 square feet of impervious surface to the tract to be subdivided, then the requirements of this section shall not be applicable to the subdivision. The applicability of the requirements of this section to each of the individual lots so created shall then be determined as development permits are issued for each such lot.
- (5) When land is subdivided, and the permit authorizing the subdivision itself authorizes the net addition of more than 5,000 square feet of impervious surface to the tract to be subdivided (regardless of whether such impervious surface consists of a road or other facilities external to the lots so created, or buildings, parking lots, and other facilities constructed within the lots so created, or a combination of the two), then the subdivision shall comply with the requirements of this section. Furthermore, the stormwater management system that is installed to comply with the provisions of this section shall be required to take into account all the stormwater reasonably expected to be generated by the development (according to generally accepted engineering standards) when all subdivided lots five acres or less in size are fully developed. When such lots are subsequently developed, they shall be exempt from further review under the provisions of this section. However, any lot within such subdivision that is greater than five acres in size and that was not included in the stormwater calculations for purposes of designing a stormwater management system that satisfies the requirements of this section shall be required to comply with the requirements of this section at the time such lot is developed, if and to the extent required to do so under subsection (a)(3) of this section.
- (6) Notwithstanding the other provisions of this subsection, if (i) a lot is within a commercial district described in Section 15-136 or a manufacturing district described in 15-137, (ii) on the date that a development permit application is submitted and the fees paid the lot is already developed to the extent that the lot contains at least 10,000 square feet of impervious surface area, and (iii) the reasonably estimated cost of the redevelopment of the lot as proposed in the development permit application exceeds the greater of \$100,000, or fifty percent (50%) of the appraised value of the existing improvements on the lot, then the requirements of this section shall be applicable to such redevelopment. For purposes of this subdivision (a)(6), the terms "cost" and "appraised value" shall have the same meaning as provided in Subsection 15-125(c) of this chapter.

- (7) Notwithstanding the other provisions of this subsection, the requirements of this section shall apply to any development involving the reconstruction of a previously paved area comprising at least 10,000 square feet (repaving or resurfacing shall not be considered reconstruction).

**Section 9.** Section 15-183 of the Carrboro Land Use Ordinance is amended by redesignating subsection (c) as subsection (b) (there is no existing subsection (b)) and by adding a new subsection (c) to read as follows:

(c) Within any residential zoning district, on lots that do not satisfy the presumptive lot width standards set forth in subsection (a)(2) of this section, the only residential use that shall be permissible is the one identified in the Table of Permissible Uses as use classification 1.111 (single family detached, one dwelling unit per lot, site built or modular).

**Section 10.** All provisions of any town ordinance in conflict with this ordinance are repealed.

**Section 11.** This ordinance shall become effective upon adoption.



## ATTACHMENT C

### AN ORDINANCE AMENDING CHAPTER 8 OF THE TOWN CODE TO ESTABLISH A PRIVILEGE LICENSE TAX FOR ELECTRONIC GAMING OPERATIONS

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAIN:

Section 1. Section 8-1 of the Carrboro Town Code is amended by adding the following definition in appropriate alphabetical order:

*Electronic gaming operation* means any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals (collectively the "machines"), to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, or cybercafés. This does not include any lottery approved by the State of North Carolina or any operations conducted by nonprofit organizations or entities.

Section 2. The first sentence of Subsection 8-5(a) of the Carrboro Town Code is amended to read: "Subject to the provisions of subsections (b) and (c) of this section, all persons and entities conducting nonexempt business within the town shall pay a privilege license tax in an amount based upon the annual gross receipts of that business during the previous year."

Section 3. Section 8-5 of the Carrboro Town Code is amended by adding a new subsection (c) to read as follows:

(c) Notwithstanding the provisions of subsection (a) of this section, all persons and entities engaged in the business of an electronic gaming operation within the town shall pay an annual privilege license tax in the amount of one thousand dollars (\$1,000) plus five hundred dollars (\$500.00) per electronic gaming machine use or stored as part of the electronic gaming operation.

Section 2. All provisions of any Town ordinance in conflict with this ordinance are repealed.

Section 3. Notwithstanding the provisions of Subsection 8-5(a), this ordinance shall become effective upon adoption without need of further amendment of the Town's Miscellaneous Fees and Charges Schedule.



## TOWN OF CARRBORO

NORTH CAROLINA

## MEMORANDUM

## PLANNING DEPARTMENT

DELIVERED VIA: ☒ HAND ☐ MAIL ☐ FAX ☐ EMAIL

**To:** Steve Stewart, Town Manager  
Mayor and Board of Aldermen

**From:** Patricia J. McGuire, Planning Administrator

**Date:** June 18, 2010

**Subject:** Miscellaneous Land Use Ordinance Text Amendments

The draft ordinance includes the following changes.

1. Updating the list of invasive plants in Appendix E-17 per a recommendation from the EAB. This section prohibits the use of these plants to meet the screening and shading requirements of the Land Use Ordinance. Staff has included a new provision that will, if adopted, prohibit the inclusion of these plants on any plans submitted as part of an application for a land use permit; and
2. Establishing a new use, electronic gaming operations, and associated dimensional and locational requirements. This use, also known as an Internet sweepstakes cafe, has been proliferating throughout the state since court rulings determined that it was not subject to a state law that otherwise prohibits internet gambling. These businesses sell browsing time on the internet, a side benefit of which is free credits to play internet sweepstakes. The businesses are especially common in low-income neighborhoods and towns. The proposed amendment establishes a new use, identifies the appropriate location for this use and specifies other dimensional and locational requirements. The final version of the draft ordinance differs slightly from that offered to the Board on May 18<sup>th</sup> in that the use would be permitted in only the B-4 zoning district. Preliminary evaluation of these zones and surrounding uses suggested that the use would also fit within the M-1 district. A 500-ft buffer is shown below around all the commercial buildings in the B-4 and M-1 zoning districts and buildings used for residential uses within these buffers are shown in red. These mapped buffers reveal that the central portions of the two existing developed B-4-zoned properties (i.e. Willow Creek and Carrboro Plaza), satisfy the spacing requirements proposed in Section 15-180 (a).

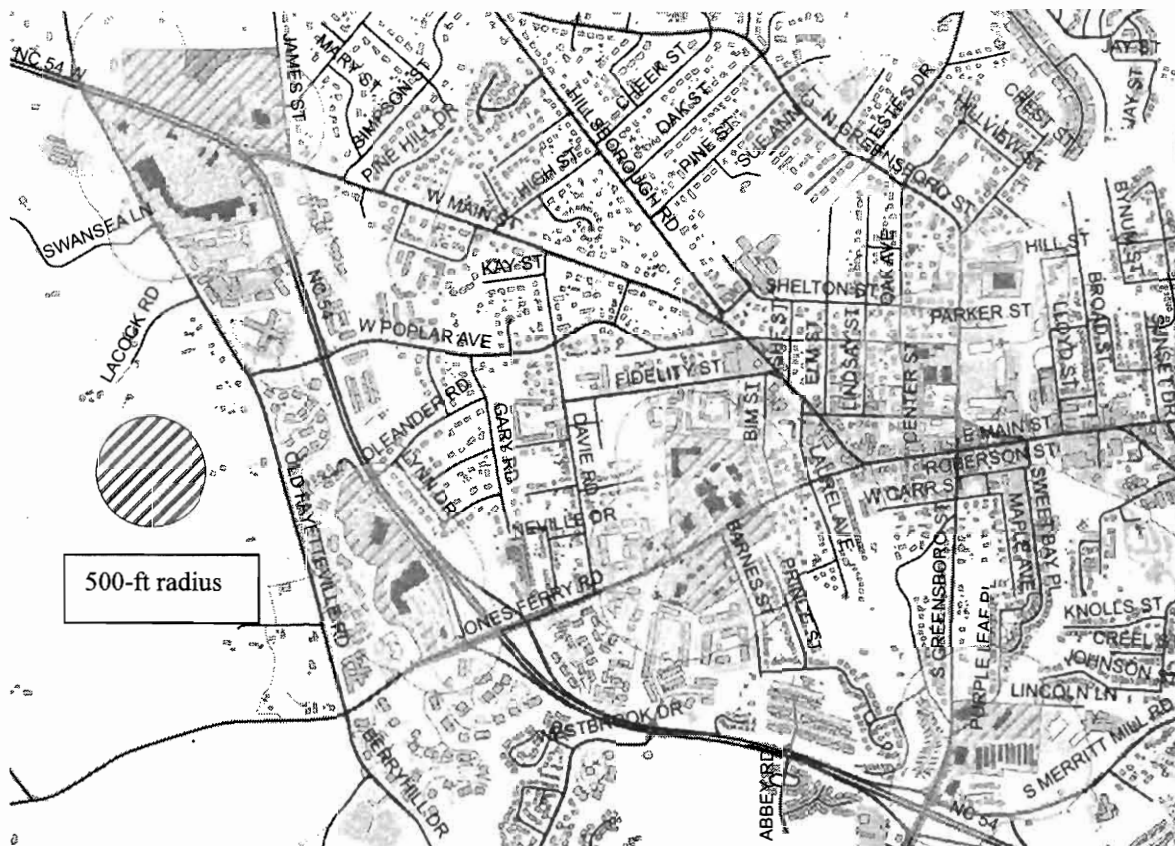


Figure 1. Location of B-4 and M-1 zoning districts, with 500-ft buffers around commercial buildings.

3. Clarifying the definition of minor subdivisions. The current provisions include two things that have elevated a minor subdivision, reviewed by staff, to one needing a special use permit. These provisions are the extension of OWASA lines and drainage improvements from one lot to another. Staff has found these requirements to be unnecessarily complicating and propose that they be removed. Under the revised definition, a minor subdivision is defined as one that involves no more than the creation of four lots or the creation of any new public streets; and
4. Modifying provisions associated with performance guarantees. The LUO provides a variety of mechanisms by which projects can advance without completion of all necessary infrastructure through the use of performance guarantees. Staff has found that the existing language neither fully addresses the Town's practice nor provides sufficient clarity and flexibility. The amendments respond to these findings and attempt to make the section much simpler and more realistic; and
5. Clarifying the thresholds for storm water management requirements. In 2006, new "disturbed area"- based storm water management requirements were established as an update to a land use permit threshold. After a couple of years of experience, staff has identified the need to modify the definitions and thresholds a bit, while maintaining the structure and substance of the changes made in 2006. The amendments offer "impervious area" as the trigger for determining the need for water quality and quantity measures, and also clarifies when improvements must be made in subdivisions of land that do not also involve approval for development; and

6. Adding a provision that makes lots with widths that do not meet the presumptive standard usable for only single-family, one dwelling unit per lot, uses. The existing language was developed to allow flexibility for the subdivision of small lots that otherwise exceeded the dimensional requirements in residential zoning districts (i.e. allowing single lots to be divided into two or three lots). Staff has found, however, that with the exempt subdivision definition, this provision has allowed the subdivision or development of property on a much larger scale (e.g. lots or developments supporting a total of 6 and 16 or more dwellings have been created using this provision) without any public input or public hearing process involved. Staff has considered recommending an absolute, rather than a presumptive standard, but feels that some flexibility should be retained. The proposed change would prevent larger properties from being recombined and/or subdivided or developed with multiple exempt lots without going through the subdivision review and approval; new lots that do not meet the minimum lot width could still be created, but would be limited to one single-family home per lot.

STAFF RECOMMENDATION

The ordinance included in the public hearing agenda packet includes the change described above in item 2. Approval of the ordinance is recommended.

- (7) Notwithstanding the other provisions of this subsection, the requirements of this section shall apply to any development involving the reconstruction of a previously paved area comprising at least 10,000 square feet (repaving or resurfacing shall not be considered reconstruction).

**Section 9.** Section 15-183 of the Carrboro Land Use Ordinance is amended by redesignating subsection (c) as subsection (b) (there is no existing subsection (b)) and by adding a new subsection (c) to read as follows:

(c) Within any residential zoning district, on lots that do not satisfy the presumptive lot width standards set forth in subsection (a)(2) of this section, the only residential use that shall be permissible is the one identified in the Table of Permissible Uses as use classification 1.111 (single family detached, one dwelling unit per lot, site built or modular).

**Section 10.** All provisions of any town ordinance in conflict with this ordinance are repealed.

**Section 11.** This ordinance shall become effective upon adoption.

**E-17 List of Invasive Plant Species (AMENDED 6/22/04)**

The following plant species shall be prohibited when complying with the shading and landscaping provisions of this chapter.

<b>Species (Latin)</b>	<b>Common Name</b>
Akebia quinata	Chocolate vine
Acer ginnala	Amur Maple
Acer platanoides	Norway Maple
Ailanthus altissima	Tree of Heaven
Albizia julibrissin	Mimosa
Ampelopsis brevipedunculata	Porcelainberry
Baccharia halimifolia	Baccharis spp
All Berberis species including	
Berberis julianae	Wintergreen Barberry
Berberis thunbergii	Japanese Barberry
Broussonetia papyrifera	Paper Mulberry
Celastrus orbiculatus	Bittersweet
All Cotoneaster species including	
Cotoneaster microphyllus	Littleleaf Cotoneaster
Cotoneaster horizontalis	Rockspray Cotoneaster
Crataegus monogyna	Singleseed Hawthorn
Crataegus laevigata	English Hawthorn
All Cytisus scoparius	Scotch Broom
Eleagnus angustifolia	Russian Olive
Eleagnus umbellata	Autumn Olive
Euonymus alatus	Winged Euonymus, Burning Bush
Euonymus japonicus	Japanese Euonymus
Firmiana simplex	Chinese Parasol Tree
Hedera helix	English Ivy
All Ligustrum species including	
Ligustrum japonicum	Japanese Privet
Ligustrum lucidum	Waxleaf Privet
Ligustrum obtusifolium	Border Privet
Ligustrum vulgare	European Privet
Ligustrum sinense	Chinese Privet
Ligustrum x vicari	Golden Vicary Privet
Lonicera japonica	Japanese Honeysuckle
Lonicera maackii	Bush Honeysuckle
Lonicera nitida	Boxleaf Honeysuckle

Species (Latin)	Common Name
Lonicera tatarica	Tatarian Honeysuckle
Miscanthus sinensis	Eulalia, Maiden Grass
Mahonia repens	Oregon Grape
Morus alba	White Mulberry
Paulownia tomentosa	Princess Tree
Phyllostachys aurea	Golden Bamboo
Populus alba	White Poplar
Spirea Japonica	Japanese Meadowsweet
Taxus cuspidata	Japanese Yew
Viburnum opulus	European Cranberrybush Viburnum
Vinca major	Large Periwinkle
Vinca minor	Common Periwinkle
Wisteria sinensis	Chinese Wisteria
Wisteria japonica	Japanese Wisteria

**Art II. BASIC DEFINITIONS AND INTERPRETATIONS**

- (127) **SUBDIVISION.** The division of a tract of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips of land for widening or opening of streets or for public transportation system corridors; or (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter. (AMENDED 10/24/06)
- (128) **SUBDIVISION, ARCHITECTURALLY INTEGRATED NONRESIDENTIAL. (REPEALED 4/24/84)**
- (129) **SUBDIVISION, ARCHITECTURALLY INTEGRATED RESIDENTIAL. (REPEALED 4/24/84)**
- (130) **SUBDIVISION, ARCHITECTURALLY INTEGRATED.** A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, heights, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in Section 15-187.
- (131) **SUBDIVISION, MAJOR.** Any subdivision other than a minor subdivision.
- (132) **SUBDIVISION, MINOR.** A subdivision that of property located outside of the watershed districts does not involve any of the following: (i) the creation of more than a total of four lots; (ii) the creation of any new public streets, (iii) the extension of the water or sewer system operated by the Orange Water and Sewer Authority, or (iv) the installation of drainage improvements through one or more lots to serve one or more other lots. (AMENDED 7/21/87; 12/15/87)
- (133) **TEMPORARY HOME FOR HOMELESS.** A home owned or operated by a non-profit agency for not more than fifteen persons who satisfy the following criteria and who are in need of temporary housing, together with not more than two resident managers. All residents of such home, other than the manager shall: (i) be accepted only upon referral from an established agency within the community such as the Carrboro or Chapel Hill Police Departments, Inter-Faith Council, Salvation Army, etc. (ii) need housing and intend to reside within the home for at least a week while looking for more permanent accommodations within the community, (iii) be in need of temporary shelter because of some temporary emergency or exigency (e.g., pregnant teenagers, battered wives, newly unemployed persons



**Art. IV PERMITS AND FINAL PLAT APPROVAL**

taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process.

- (3) If the board concludes that the application fails to comply with one or more requirements of this chapter, the application shall be denied. If the board concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subdivision 15-45(c)(4). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

**Section 15-59 Additional Requirements on Special Use and Conditional Use Permits.**

(a) Subject to subsection (b), in granting a special or conditional use permit, the board of adjustment or Board of Aldermen, respectively, may attach to the permit such reasonable requirements in addition to those specified in this chapter as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the Carrboro Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board.

(b) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements. **(AMENDED 5/26/87)**

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration.

(d) In the case of a conditional use zoning district, specific conditions may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the permit requirements. Conditions and site-specific standards imposed in a conditional use permit as a part of a conditional use zoning district shall be limited to those that address the conformance of the development and use of the site to Town ordinances and any officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. **(AMENDED 10/24/06)**

**Art. IV PERMITS AND FINAL PLAT APPROVAL**

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(f) A vote may be taken on additional conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subdivision 15- 54(c)(3) or (4).

**Section 15-60 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits (AMENDED 10/08/96; 10/24/06)**

(a) In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security satisfactory to the manager to ensure that all these requirements up to \$100,000 in value will be fulfilled within a reasonable period (not to exceed ten months). The manager may approve such security for incomplete items up to \$100,000 in value, or may refer such approval to the board. The board may approve security for items referred by the manager as well as security for items that exceed \$100,000 in value. (AMENDED 10/10/00; 10/24/06)

(b) When the board imposes additional requirements upon the permit recipient in accordance with Section 15-59 or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if the board specifies a certain date by which or a schedule according to which such requirements must be met or each amenity installed and if the board concludes that compliance will be ensured as the result of any one or more of the following:

- (1) At the election of the developer, a surety bond, letter of credit or other security satisfactory to the town manager is furnished;
- (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring the permit recipient's compliance will be reviewed when application for renewal is made; or (AMENDED 10/24/06)
- (3) The nature of the requirements or amenities is such that sufficient assurance of compliances given by Section 15-114 (Penalties and Remedies For Violations) and Section 15-115 (Permit Revocation).

**Art. IV PERMITS AND FINAL PLAT APPROVAL**

If a request for approval under this subsection is submitted at a time when no regular meeting of the board is scheduled for a period of more than 21 days following the submission of the request, then the manager may approve the request.

(c) With respect to residential and non-residential subdivisions in which the developer is selling only undeveloped lots and with respect to residential subdivisions in which the developer is selling developed lots, the town manager may authorize final plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the subdivider provides a surety bond, letter credit or other security satisfactory to the town manager to ensure that all of these requirements will be fulfilled within not more than ten months after final plat approval. The developer shall choose which of the above listed performance guarantees to use. In the case of subdivisions where the developer is an entity in which all of the initial purchasers of lots within that subdivision have an interest, the manager may extend the ten-month deadline (upon the posting of satisfactory security) for two additional successive periods of up to twelve months each with respect to required improvements other than streets and utilities. (AMENDED 07/26/83; 06/27/89; 08/22/95; 06/11/96; 10/24/06)

**Section 15-61 Completing Developments in Phases.**

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Section 15-47 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 15-60 (exceptions to Section 15-47) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

- (1) If the improvement is one required by this chapter then the developer may utilize the provisions of Subsections 15-60(a) or 15-60(c);

## Art. XII DENSITY AND DIMENSIONAL REGULATIONS

**Section 15-183 Minimum Lot Widths.**

- (a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
- (1) Could be used for purposes that are permissible in that zoning district; and
  - (2) Could satisfy any applicable setback requirements for that district. Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a). The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot. (AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91)

<b>C</b>	<b>None</b>
<b>RR</b>	<b>100</b>
<b>R-20</b>	<b>100</b>
<b>R-15</b>	<b>85</b>
<b>R-10</b>	<b>75</b>
<b>R-S.I.R.</b>	<b>75</b>
<b>R-7.5</b>	<b>75</b>
<b>R-3</b>	<b>50</b>
<b>B-1(c)</b>	<b>None</b>
<b>B-1(g)</b>	<b>None</b>
<b>B-2</b>	<b>50</b>
<b>B-3</b>	<b>75</b>
<b>B-3-T</b>	<b>75</b>
<b>B-4</b>	<b>None</b>
<b>B-5</b>	<b>100</b>
<b>M-1</b>	<b>100</b>
<b>M-2</b>	<b>100</b>
<b>WM-3</b>	<b>100</b>
<b>WR</b>	<b>100</b>
<b>CT</b>	<b>100</b>
<b>R-2</b>	<b>100</b>
<b>O</b>	<b>75</b>
<b>O/A</b>	<b>75</b>

## Art. XII DENSITY AND DIMENSIONAL REGULATIONS

- (c) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

**Section 15-184 Building Setback Requirements.**

- (a) Subject to Section 15-187 (Architecturally Integrated Subdivisions) and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below: **(AMENDED 1/22/85)**

- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

- (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.

- (3) As used in this section, the term "building" includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

- a. Gas pumps and overhead canopies or roofs.
- b. Fences, walls or berms running along lot boundaries adjacent to public street rights-of-way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as "buildings" within the meaning of this subsection if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots.  
**(AMENDED 05/19/98)**

- (4) Notwithstanding any other provision of this chapter, signs that do not meet the definition of freestanding signs may be erected on or affixed to structures (e.g., some fences) that are not subject to the setback requirements applicable to buildings only if such signs are located such that they satisfy the setback requirements applicable to freestanding signs in the district where located.  
**(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 01/16/01)**

## TOWN OF CARRBORO



## Environmental Advisory Board

*301 West Main Street, Carrboro, North Carolina 27510*

## R E C O M M E N D A T I O N

THURSDAY, JUNE 3, 2010

**MISCELLANEOUS LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO  
INVASIVE PLANTS, ELECTRONIC GAMING OPERATIONS, MINOR SUBDIVISIONS,  
MINIMUM LOT WIDTH REQUIREMENTS, AND STORM WATER MANAGEMENT**

Motion was made by Dana Stidham and seconded by Nina Butler that the EAB recommends that the Board of Aldermen consider the following recommendation in its deliberation on the draft ordinance.

The EAB recognizes the value of trees and forests in protecting water quality and maintaining natural hydrology. The EAB recommends that the Town improve land use ordinance provisions to further protect tree canopy and forests in recognition of their water quality benefit.

VOTE: AYES: Stidham, Butler, Gisler, Arnsberger, Shephard

ABSENT/EXCUSED: Weller, Mullen

NOES:

ABSTENTIONS:

Associated Findings

By a unanimous show of hands, the EAB membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

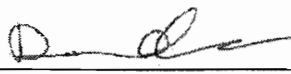
Furthermore, the EAB of the Town of Carrboro finds that the proposed text amendment is consistent with Carrboro Vision 2020 policies specified in 5.0 related to the town serving as a leader in protecting the environments, 3.1 related to minimizing negative environmental impacts of development, 1.44 related to local control of revenue options, and 5.23, related to being proactive in the management of stormwater

VOTE: AYES: Stidham, Butler, Gisler, Arnsberger, Shephard

ABSENT/EXCUSED: Weller, Mullen

NOES:

ABSTENTIONS:

  
\_\_\_\_\_  
(Acting Chair)

6/3/10  
\_\_\_\_\_  
(Date)

**Town of Carrboro  
Environmental Advisory Board (EAB)**



**MEMORANDUM**

Date: June 15, 2010  
 To: Board of Aldermen  
 From: Matthew Arnsberger, Environmental Advisory Board (EAB)  
 Through: EAB  
           Randy Dodd, Environmental Planner  
           Patricia McGuire, Planning Administrator  
 Copy: Marty Roupe, Development Review Administrator  
 Subject: Invasive Plant Provisions in Land Use Ordinance

**Summary**

The purpose of this memo is to summarize recommended updates to the list of invasive plant species in the Land Use Ordinance.

**Information**

I have completed a review of the current list of invasive plants in the Land Use Ordinance [*Town Of Carrboro, Land Use Ordinance, Appendix E-17 pages E-5 124-125*]. My general finding is that the list is arbitrary, not scientifically based, nor up to date. There are numerous plants (twenty or so) on this list that are not considered to be invasive, and several invasive exotic pest plants that should be on this list. Biologists from numerous state agencies and institutions have contributed to the development of a qualitatively assessed **List of Invasive Exotic Plants** made available through the **NC Native Plant Society**. These agencies include:

NC Natural Heritage Program  
 NC Department of Environment and Natural Resources  
 NC Exotic Pest Plant Council  
 US Fish and Wildlife Service  
 The Nature Conservancy  
 NC Botanical Gardens, NC Zoo, and UNC Herbarium

The Native Plant Society's List of Exotic Pest Plants' rating system has been developed to rank invasive exotic plants. The criteria used to identify which plants fall into which ranking include:

The ecological impact of each invasive plant species  
 The current distribution and abundance of each invasive plant species  
 Trends in abundance and distribution of each invasive plant species, and  
 The management difficulty in control of each invasive plant species.

Ranking categories are listed as Severe Threat, Significant Threat, Lesser Threat, and Watch List plants.

**Rank 1 – Severe Threat** is defined as “exotic plant species that have invasive characteristics and spread readily into native plant communities, displacing native vegetation.” This list provides the basis for the plant species recommended for inclusion in Appendix E-17 of the Land Use Ordinance.

As a footnote, it is worth noting that several plant species and their cultivars on the Rank 1 – Severe Threat plant list are currently commercially available in North Carolina, as shown below:

Species (Latin)	Common Name
Albizia julibrissin	Mimosa
Hedera helix	English Ivy
Ligustrum sinense	Chinese Privet
Lonicera fragrantissima	Bush Honeysuckle
Wisteria sinensis	Chinese Wisteria

### **Recommendation**

The Carrboro EAB has reviewed my recommendations and requests that the Carrboro Board of Alderman adopt the Rank 1 list of Severe Threat exotic pest plants as provided in the draft ordinance amendment to update Carrboro's LUO Appendix E-17 List of Invasive Plant Species. The EAB also recommends that the list of invasive species in *Appendix E-17* be kept up-to-date by reviewing the NC Native Plant Society recommendations every couple of years.





# TOWN OF CARRBORO

*301 West Main Street, Carrboro, North Carolina 27510*

## RECOMMENDATION

THURSDAY, JUNE 3, 2010

### MISCELLANEOUS LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO INVASIVE PLANTS, ELECTRONIC GAMING OPERATIONS, MINOR SUBDIVISIONS, MINIMUM LOT WIDTH REQUIREMENTS, AND STORM WATER MANAGEMENT

Motion was made by David Clinton and seconded by Tamara Oxley that the Planning Board recommends that the Board of Aldermen adopt the draft ordinance as presented by staff.

**VOTE:**

AYES: (7) Barton, Clinton, Fritz, Oxley, Poulton, Seils, Shoup

ABSENT/EXCUSED: (3) Wagner, Warner, Williams

NOES: (0)

ABSTENTIONS: (0)

**Associated Findings**

By a unanimous show of hands, the Planning Board membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Furthermore, the Planning Board of the Town of Carrboro finds that the proposed text amendment is consistent with Carrboro Vision 2020 policies specified in 5.0 related to the town serving as a leader in protecting the environment, 3.1 related to minimizing negative environmental impacts of development, 1.44 related to local control of revenue options, 5.23 related to being proactive in the management of storm water, and 1.42 related to efficiency of government operations.

**VOTE:**

AYES: (7) Barton, Clinton, Fritz, Oxley, Poulton, Seils, Shoup

ABSENT/EXCUSED: (3) Wagner, Warner, Williams

NOES: (0)

ABSTENTIONS: (0)

*Damon Seils* June 4, 2010  
(Chair) (Date)

# ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration  
(919) 245-2575  
(919) 644-3002 (FAX)  
www.co.orange.nc.us



306F Revere Road  
P O Box 8181  
Hillsborough,  
North Carolina, 27278



## TRANSMITTAL DELIVERED VIA EMAIL

June 16, 2010

Patricia J. McGuire, AICP  
Planning Administrator  
Town of Carrboro  
301 W. Main St.  
Carrboro, NC 27510

### SUBJECT: Joint Planning Review of Proposed Ordinance Amendments

Dear Trish:

Thank you for the opportunity to review the various Land Use Ordinance amendments received by us on June 7, 2010 and proposed for town public hearing on June 22, 2010.

We have reviewed the amendments proposed for the six different topic areas and find no inconsistency with the adopted *Joint Planning Area Land Use Plan* on these proposed amendments.

If you have any questions or need additional information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Perdita Holtz".

Perdita Holtz, AICP  
Planning Systems Coordinator