

# BOARD OF ALDERMEN

ITEM NO. \_\_\_\_\_

## AGENDA ITEM ABSTRACT

**MEETING DATE: January 24, 2011**

**TITLE:** Public Hearing on a Land Use Ordinance Text Amendment Making Technical Corrections to Water Quality Buffer Requirements Per Action of the Environmental Management Commission on July 14, 2011

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES</b>
<b>ATTACHMENTS:</b> <ul style="list-style-type: none"><li><b>A. Resolution</b></li><li><b>B. Resolutions of Consistency</b></li><li><b>C. Draft Ordinance</b></li><li><b>D. Excerpts of the 2008 and 2011 versions of the Jordan Model Buffer Ordinance and Carrboro Land Use Ordinance</b></li><li><b>E. Recommendation and Comment</b></li></ul>	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – <b>918-7327</b> Michael Brough – <b>929-3905</b>

### PURPOSE

The Environmental Management Commission made technical changes to the Rule for Jordan Lake on July 14<sup>th</sup>. The Town has been notified of these changes and the need to submit a revised buffer ordinance by March 1, 2012. The Board of Aldermen must receive public comment before taking action on the draft ordinance.

### INFORMATION

Staff received notification from the North Carolina Division of Water Quality in late September that an “exempt” activity was inadvertently removed from the table of allowable and exempt activities in the final approved version of the Rule for Jordan Lake when it was sent to the Rules Review Commission in June 2008. This item is:

*“Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items (7) and (8) of this rule is established adjacent to the new channel “*

This item has now been restored to the Environmental Management Commission rule as a result of technical changes approved by the EMC on July 14, 2011 and the Rules Review Committee on August 18, 2011. The Jordan Model Buffer Ordinance has been revised to reflect the change and is available at <http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2015A%20-%20Environment%20and%20Natural%20Resources\Chapter%2002%20-%20Environmental%20Management> (see Subchapter B for JORDAN WATER SUPPLY NUTRIENT STRATEGY: PROTECTION OF EXISTING RIPARIAN BUFFERS). Item 9.(B)(2)

(pg 24/35) was also revised to refer to sub-Items 9.(B)(1) (instead of Section 9.(A)(1) through Section 9.(A)(3)), though a corresponding change in Carrboro's ordinance is not needed for this revision.

Staff has included two additional changes related to Land Use Ordinance provisions. The draft ordinance includes five sections, as follows:

- 1) Section 1 addresses the required change to the Table of Exempt and Allowable Uses. Staff has included language to clarify that ponds that are not located in natural drainage ways are not subject to buffer requirements (including, but not limited to, establishment and maintenance of riparian buffers).
- 2) Section 2 repeals language related to intrusions into the buffer that was carried over from the pre-Jordan Lake ordinance provisions. The language was originally included to provide flexibility related to the development of pre-existing lots. Staff has determined that this language conflicts with the exempt and allowable uses and variance provisions and should be removed.
- 3) Section 3 adds a new section to Section 15-261 Natural Drainage Systems Utilized to Extent Feasible that seeks to recognize the drainage benefits of ponds that are not located in natural drainage ways and provide for evaluation/replacement of those benefits should the pond be removed even where the requirements of Section 15-263 do not apply.
- 4) Sections 4 and 5 are standard provisions related to the repeal of conflicting ordinance provisions and the effective date of the ordinance. In this case, the effective date of the ordinance will be the date it is approved by the Environmental Management Commission following approval by the Board of Aldermen.

Copies of excerpts of the 2008 and 2011 versions of the Jordan Model Buffer Ordinance, as well as relevant sections of the Land Use Ordinance are provided for reference (*Attachment D*). The Town has been asked to submit a copy of its buffer ordinance, modified to reflect the noted technical corrections, by March 1, 2012. A draft ordinance making these changes has been prepared.

The draft ordinance was referred to the Planning Board, Environmental Advisory Board, and Orange County. Copies of recommendations/comments from the Planning Board and Orange County are attached (*Attachment E*). The Environmental Advisory Board is scheduled to review on February 2<sup>nd</sup>. A resolution continuing the public hearing to allow time for this review is provided (*Attachment A*).

### **FISCAL IMPACT**

None noted.

### **STAFF RECOMMENDATION**

The staff recommends that the Board of Aldermen adopt the resolution finding consistency and the draft ordinance (*Attachments B-1 and C*).