

## WATER CONSERVATION ORDINANCE

AN ORDINANCE PROVIDING FOR CONSERVATION OF WATER  
AND RESTRICTIONS ON THE USE OF WATER DURING A WATER SHORTAGE  
OR IMPENDING WATER SHORTAGE

BE IT ORDAINED by the Union County Board of Commissioners that water conservation is deemed to be necessary when water demand by customers connected to the Union County water system reaches the point where continued or increased demand will equal or exceed the treatment and/or transmission capacity of the system or portions thereof. When water demand results in the condition whereby customers cannot be supplied with adequate water to protect their health, safety, or property, then the demand must be substantially curtailed to relieve the water shortage. The restrictions imposed pursuant to this Ordinance shall apply only to potable water supplied through the Union County water system, and not to reuse or reclaimed water. In addition to the water conservation measures set out herein, Union County may also establish a rate structure that increases the cost for potable water commensurate with the escalation of water shortage conditions.

Article IDeclaration of Water ShortageSection I: Applicability of Ordinance

In the event (i) it appears there is a sustained demand of 80% of the treatment and/or transmission capacity of the Union County water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage I Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain water use restrictions by Union County, then in either such event the Director of the Union County Public Works Department, hereinafter referred to as the "Director," may recommend to the County Manager that water conservation measures be implemented, and the County Manager, following consultation with the Board of Commissioners, may declare a Stage I Water Shortage Condition. The County Manager, following consultation with the Board of Commissioners, may, with or without the recommendation of the Director, declare that a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition exists and require mandatory conservation measures upon occurrence of any conditions precedent for declaring such Condition, as hereinafter set forth. In declaring any Water Shortage Condition pursuant to this Ordinance, the County Manager may limit the applicability of the requirements of this Ordinance to certain sections of the County, whether by township or other description. For purposes of this Ordinance, the phrase "following consultation with the Board of Commissioners" shall mean consultation during a regular or special meeting of the Board of Commissioners when possible, but where delay would endanger the public health, safety, or welfare, as determined by the County Manager, such consultation

may be made by the County Manager with members of the Board of Commissioners on an individual basis outside the confines of a formal meeting. The County Manager shall report the declaration of a Water Shortage Condition to the Board at its next regular meeting.

The declaration of a Water Shortage Condition becomes effective immediately upon issuance by the County Manager, unless otherwise stated in such declaration. Upon declaration of any stage of Water Shortage Condition, the County Manager shall issue press releases to local television, radio and/or print media to inform the public of the voluntary and/or mandatory water use restrictions. Upon declaration of a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition, the County Manager shall also cause notice of such restrictions to be either inserted into customers' water bills or separately mailed to customers as soon as reasonably practicable.

Article II  
Stage I Water Shortage Condition

Section I

In the event a Stage I Water Shortage Condition is declared, the following guidelines shall apply:

- a. An extensive publicity campaign will be initiated using public media to inform the public of an impending or existing water shortage.
- b. Conservation measures will be encouraged and recommended.
- c. Transport of water outside of Union County will be limited.

Section II

In the event a Stage I Water Shortage Condition is declared, the public shall be encouraged to adhere to the following voluntary conservation measures:

- a. Limit car washing to the minimum.
- b. Limit lawn and garden watering to that which is necessary for plants to survive.
- c. Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.
- d. Do not leave faucets running while shaving or rinsing dishes.
- e. Water shrubbery to the minimum required, reusing household water when

possible.

- f. Limit use of clothes washers and dish washers and when used, operate fully loaded.
- g. Use of showers for bathing, rather than bathtub, and limit showers to no more than four (4) minutes.
- h. Limit flushing of toilets by multiple usage.
- i. The use of disposable and biodegradable dishes is encouraged.
- j. The use of flow-restrictive and water-saving devices is encouraged.
- k. Limit hours of operation of water-cooled air conditioners.
- l. All residents, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.
- m. Use only hoses with spring-activated nozzles when watering lawns and gardens.

### Section III

The following mandatory water conservation restriction shall apply during a Stage I Water Shortage Condition in addition to the voluntary conservation measures encouraged in Article II, Section II above.

In the event the County Manager issues a declaration of a Stage I Water Shortage Condition, it shall be unlawful for any person, firm or corporation to transport water outside of Union County, where such water has been drawn by tanker truck from a hydrant of the Union County water system; provided, however, that transport outside of Union County shall be allowed for emergency fire protection and for bona fide farm purposes. As used in this Ordinance, the use of water for "bona fide farm purposes" shall include use for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

### Article III

#### Stage II Mandatory Water Shortage Condition

##### Section I: Compliance

In the event the County Manager issues a declaration of a Stage II Mandatory Water

Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system in a manner inconsistent with the declaration until such time as the declaration of a Stage II Mandatory Water Shortage Condition has been rescinded. In exercising the authority for declaring a Stage II Mandatory Water Shortage Condition, consideration shall be given, as applicable, to water shortage levels and available sources of supply, available usable storage on hand, drawn-down rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

## Section II

In the event (i) a Stage I Water Shortage Condition declaration is ineffective in adequately reducing demand; (ii) maintenance of the system (whether preventive or breakdown maintenance, or due to an event of force majeure) requires a reduction in demand; (iii) mandatory restrictions are required to comply with any permit for the system issued by applicable state or federal authorities; (iv) sustained water demand exceeds 90% of the treatment and/or transmission capacity of the Union County water system or portions thereof; or (v) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 2 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then upon occurrence of any such event the County Manager may issue a declaration that a Stage II Mandatory Water Shortage Condition exists. Such declaration may prohibit any one or more of the types of water uses regulated under a Stage I, Stage III, or Stage IV Water Shortage Condition, provided that the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address. After consultation with the Board, the County Manager may also take such other measures as deemed necessary to give effect to the intent of this Ordinance.

## Article IV

### Stage III Mandatory Water Shortage Condition

#### Section I: Compliance

In the event the County Manager issues a declaration of a Stage III Mandatory Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system for any purpose hereinafter set forth until such time as the declaration of a Stage III Mandatory Water Shortage Condition has been rescinded. In exercising the authority for declaring a Stage III Mandatory Water Shortage Condition, consideration shall be given, as applicable, to water shortage levels and available sources of supply, available usable storage on hand, drawn-down rates, the projected supply

capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

## Section II

In the event (i) a Stage II Mandatory Water Shortage Condition is in effect and the system demand for water continues to exceed capacity of the water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 3 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Watauga Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then in either such event a Stage III Mandatory Water Shortage Condition may be declared. In addition to any voluntary and mandatory guidelines already in effect, it shall be unlawful to use water supplied by the Union County water system in the following manner:

- a. To water lawns; provided that shrubbery, trees, flowers and vegetable gardens may be watered by hand or by drip irrigation;
- b. To conduct residential vehicle washing;
- c. To wash public buildings, sidewalks, and streets, except as required for safety and/or to maintain regulatory compliance;
- d. To use water for dust control during construction;
- e. To conduct flushing or hydrant testing programs, except to maintain water quality or other special circumstances approved by the Director in advance;
- f. To fill new swimming pools; and
- g. To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.

Notwithstanding the prohibitions on use stated above, the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may allow one or more such uses on a limited basis not more frequently than two (2) days per week if (i) stated in the original declaration of a Stage III Mandatory Water Shortage Condition, or in any amendment thereto; and (ii) consistent with the Stage 3 Low Inflow Condition declared by Duke Energy Carolinas, LLC, when such Condition is in effect. When allowing one or more such uses one (1) day or two (2) days per week, the County Manager may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address.

Article V  
Stage IV Mandatory Water Shortage Condition

Section I: Compliance

In the event the County Manager issues a declaration of a Stage IV Mandatory Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given, as applicable, to water storage levels and available sources of supply, available usable storage on hand, draw-down rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

Section II

In the event (i) a Stage III Mandatory Water Shortage Condition is in effect and demand for water continues to exceed capacity of the water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 4 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then in either such event a Stage IV Mandatory Water Shortage Condition may be declared. In addition to the restrictions for Stage I, Stage II, and Stage III Water Shortage Conditions, the following restrictions shall also apply:

- a. Fire protection shall be maintained by drafting of ponds, rivers, etc..., wherever possible.
- b. The use of throw-away utensils and plates is encouraged and recommended at all eating establishments.
- c. It shall be unlawful to use water supplied by the Union County water system in the following manner:
  - (i) To induce water into any pool;
  - (ii) To use water outside a structure for any use other than an emergency involving a fire;
  - (iii) To operate an evaporative air conditioner which recycles water except during operating hours of business; and

- (iv) To use water for road construction practices, i.e. compaction and washing.

#### Article VI

##### Section I: Lifting of Restrictions Imposed During a Water Shortage

- a. Water Shortage Conditions will expire when the County Manager, after consultation with the Board of Commissioners and upon recommendation of the Director, deems that the condition which caused the water shortage condition has abated.
- b. The expiration or cancellation of a water shortage declaration shall be promptly and extensively publicized.

#### Article VII

##### Section I: Enforcement

- a. Compliance with the provisions of this Ordinance shall be enforced by personnel of the Union County Public Works Department, hereinafter referred to as "UCPW," independent contractors engaged by UCPW for such purpose, and such other personnel as designated by the County Manager.
- b. The use of water from the Union County water system by a customer in violation of any mandatory water conservation control imposed pursuant to this Ordinance is unlawful. For purposes of this Ordinance, the term "customer" shall mean any person or entity in whose name UCPW maintains an account for water use. Further, the refusal or failure of a customer or other person acting on the customer's behalf to cease immediately a violation of a water conservation control, after being directed to do so by a person authorized to enforce the provisions of this Ordinance, is unlawful. Each customer is responsible for any use of water that passes through the service connection associated with the customer's account or otherwise passes through the customer's private water system.
- c. Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to this Ordinance shall be subject to civil penalties as follows: (i) a warning for the first violation; (ii) a civil penalty in the amount of one hundred dollars (\$100) for the second violation; (iii) a civil penalty in the amount of five hundred dollars (\$500) for the third and fourth violations; and (iv) a civil penalty in the amount of one thousand dollars (\$1,000) for the fifth and each subsequent violation. Each day that a violation of a mandatory water conservation control occurs or continues to occur after delivery of notice pursuant to subsection (g) below shall be considered to be a separate and distinct violation.

- d. Violations shall be accumulated by customers on a calendar year basis for purposes of accrual of civil penalties. For example, a second violation by a customer during a calendar year shall result in a civil penalty of one hundred dollars (\$100), but the next subsequent violation, if incurred by that same customer during the following calendar year, shall result in a warning for first violation. Notwithstanding the foregoing, the customer shall remain liable for payment of all civil penalties regardless of when accrued. Violations of any mandatory water conservation control of any stage shall accumulate with violations of other stages. Should a customer move, or cease and renew service, during a calendar year, the customer's violations shall continue to accumulate as if such move or cessation had not occurred.
- e. Each civil penalty associated with a second or third violation and assessed against a customer pursuant to this Ordinance shall be added to the customer's water bill and shall be paid in the same manner as the payment of water bills. A customer's partial payment of a water bill shall be applied first to satisfaction of the civil penalties. Failure to pay all or any portion of a water bill, including any civil penalty assessed pursuant to this Ordinance, by the due date indicated on the bill may result in the termination of water service.

Each civil penalty associated with a fourth or subsequent violation and assessed against a customer pursuant to this Ordinance shall be added to the customer's water bill, but shall be payable within ten (10) calendar days of delivery of notice of violation. Failure to pay all or any portion of a civil penalty assessed pursuant to this Ordinance by the tenth day following delivery of the notice of violation shall result in termination of water service, unless such action is stayed pending appeal.

- f. The violation of any water conservation control or provision of this Ordinance may be enforced by all remedies authorized by law for noncompliance with county ordinances, including without limitation the assessment of a civil penalty and action for injunction, order of abatement or other equitable relief; provided, however, that no violation of any water conservation control or provision of this Ordinance shall be a basis for imposing any criminal remedy. The Board of Commissioners may release billing information, as such term is defined in N.C.G.S. 132-1.1(c), of customers who violate, or have violated, the provisions of this Ordinance, when the Board in its sole discretion and acting pursuant to N.C.G.S. 132-1.1(c)(2), determines that the release of such billing information during times of mandatory water conservation is necessary to assist Union County to maintain the integrity and quality of services it provides.
- g. UCPW shall send notice of first, second, and third violations to the customer by regular U.S. mail at the customer's billing address on file with UCPW. Such notice shall be deemed to have been delivered three days from the date mailed. In the event of a fourth or subsequent violation, UCPW shall send notice of intent to terminate water service by

regular U.S. mail and by certified mail, return receipt requested, to the customer's billing address on file with UCPW. Such notice shall be deemed to have been delivered on the earlier of (i) three days from the date of mailing by regular U.S. mail, or (ii) the date indicated on the return receipt.

h. The notice of violation shall specify the following:

- (i) The nature of the violation and the date and time it occurred;
- (ii) The method by which payment of any civil penalty may be paid, including a statement indicating that it will be included on the customer's next water bill;
- (iii) A warning that additional or continued violations may result in increased penalties, including termination of water service;
- (iv) A warning that failure to pay a water bill, including any civil penalty assessed pursuant to this Ordinance, may result in termination of water service;
- (v) The telephone number at UCPW where the customer may direct any questions or comments; and
- (vi) Information indicating the manner in which the customer may appeal a violation pursuant to Article VII, Section 1(i) or appeal a pending termination pursuant to Article VIII.

i. A customer who receives a notice of violation for a first, second, or third violation may appeal the violation by written notice to UCPW indicating through supporting documentation the factual basis for the customer's position that either (i) the violation was issued in error, or (ii) the customer had no opportunity to prevent the violation. The appeal must be delivered to UCPW at the specified address within fifteen (15) calendar days of delivery of the notice of violation. The Director or his/her designee shall conduct such review of the appeal as may be necessary to determine whether the documentation provided by the customer supports the customer's assertion that the violation was issued in error or the customer had no opportunity to prevent the violation. The Director or his/her designee shall respond in writing within twenty (20) business days of receipt of the appeal.

Article VIII

Section I: Discontinuance of Service

In addition to the payment of any civil penalty assessed pursuant to Article VII of this Ordinance, a customer shall be subject to termination or restriction of water service following four (4) or more violations of any water conservation controls imposed pursuant to this Ordinance. Water service will not be restored at such service connection until the customer pays all the customer's outstanding obligations, including, without limitation, all charges for water service, all civil penalties and other fees charged in accordance with the provisions of this Ordinance, and the current disconnect processing fee. In the event water service is terminated a

second time for violations pertaining to use of water obtained by the customer through an irrigation meter, service to such irrigation meter shall remain terminated for the remainder of the calendar year.

A customer who receives a notice of violation for a fourth or subsequent violation indicating that the customer's water service is subject to termination pursuant to this Article may appeal the pending termination by filing a written notice of appeal with the Director or his or her designee. The notice of appeal must be delivered to the Director or his/her designee within ten (10) calendar days from delivery of the notice of violation and must include a copy of the notice of violation being appealed. A hearing shall be held on such appeal within ten (10) business days of receipt of the notice of appeal, or by such other date as mutually agreed upon by the Director, or his/her designee, and the customer.

#### Article IX

The following shall apply at all times to the outdoor sprinkling of lawns, shrubbery, trees, flowers, gardens, and other outside irrigation systems. By January 1, 2008, all irrigation systems equipped with a timer shall be equipped with rain sensors as approved by UCPW. Rain sensors shall be activated to prevent the system from operating after one fourth (1/4) inch of rain has fallen.

#### Article X

UCPW is authorized to issue variances in accordance with this Article permitting any customer satisfying the requirements of this Article to use water for a purpose that would otherwise be prohibited by water conservation controls then in effect. During any period that declaration of a Stage II or Stage III Water Shortage Condition is in effect, UCPW may issue variances provided that each of the following conditions is satisfied: (i) the customer applies for a variance using forms provided by UCPW; (ii) the customer pays a variance registration fee in such amount as determined by the Director, not to exceed twenty-five dollars (\$25.00); (iii) the application pertains to a new lawn and/or landscape installed incident to new construction; (iv) the customer applies for a variance either before issuance of a certificate of occupancy or within ninety (90) days after issuance of a certificate of occupancy relative to this new construction; and (v) the customer submits with the application such supporting documentation as required by UCPW to substantiate that these conditions have been satisfied.

Upon receipt of a variance from UCPW, the customer may be permitted to water such newly installed lawn and/or landscape for a period not to exceed forty-five (45) days from the date of issuance of the variance. During the period that the variance is in effect, the customer shall post signage provided by UCPW to signify the customer's temporary exempt status from water conservation controls otherwise in effect. The customer shall post such sign within two (2) feet of the driveway entrance. In any variance issued pursuant to this Article, UCPW may impose such conditions and restrictions as are appropriate to require that water used from the

Union County water system be minimized to the extent practical. Variances issued pursuant to this Article shall terminate upon the earlier occurrence of the following: (i) forty-five (45) days from the date of issuance; or (ii) declaration by the County Manager pursuant to Article V, Section I, of a Stage IV Mandatory Water Shortage Condition. In addition, the County Manager may direct that UCPW cease issuance of new variances in the event it is determined that further issuance will likely result in increased demand that will equal or exceed the treatment and/or transmission capacity of the system or portions thereof.

Any customer receiving a variance pursuant to this Article who violates the terms thereof shall be subject to a civil penalty pursuant to Article VII, Section I(c), and to revocation of the variance. Any person who has violated the terms of any variance issued pursuant to this Article or any mandatory water conservation control imposed pursuant to this Ordinance may be denied a variance, notwithstanding any provision of this Article to the contrary.

#### Article XI

Union County recognizes that irrigation systems utilizing water from the Union County water system should be properly maintained in order to maximize efficiency and prevent waste. During the period that a Stage II or Stage III Mandatory Water Shortage Condition is in effect, irrigation systems may be operated on such days and at such times as would otherwise be prohibited, provided that all of the following requirements are satisfied.

- a. Such operation must be incident to bona fide maintenance and/or repair of an existing irrigation system performed by a professional irrigation contractor in the business of performing such work. UCPW may require registration of such contractors, and may require on a given project that the contractor establish, to the satisfaction of UCPW, the need for such maintenance or repair.
- b. The irrigation contractor shall post signage provided by UCPW at the drive entrance to the property during such time, and only such time, that maintenance and/or repair services are being provided. Such signs shall be at all times the property of UCPW, and UCPW may charge a reasonable fee for provision of signs. The irrigation contractor shall not transfer, loan, or otherwise allow use of UCPW signs by anyone other than employees of the irrigation contractor and shall immediately report any lost or stolen signs to UCPW.
- c. The irrigation contractor shall remain on-site at all times while the irrigation system is in operation for maintenance and/or repair.

Any irrigation contractor who violates the requirements of this Article shall be subject to a civil penalty in the amount of five hundred dollars (\$500) and shall forfeit the opportunity afforded pursuant to this Article to provide maintenance and/or repair of irrigation systems during dates and times that watering is prohibited by a Stage II or Stage III Mandatory Water

Shortage Condition declaration. In the event an irrigation contractor fails to comply with these requirements, UCPW shall send notice of violation indicating imposition of the civil penalty and demanding return of the UCPW signs assigned to him. Such notice shall be sent by certified mail, return receipt requested, to the contractor's billing address on file with UCPW. An irrigation contractor who receives a notice of violation may appeal such decision by filing a written notice of appeal with the Director or his or her designee. The notice of appeal must be delivered to the Director or his/her designee within ten (10) calendar days from delivery of the notice of violation and must include a copy of the notice of violation being appealed. A hearing shall be held on such appeal within ten (10) business days of receipt of the notice of appeal, or by such other date as mutually agreed upon by the Director, or his/her designee, and the contractor.

Article XII

Section I: Severability

If any section, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, clause or provision so adjudged, and the remainder of this Ordinance may be declared valid once effective.

Article XIII

Section I: Effective Date

This Ordinance originally became effective on July 13, 1992. It was subsequently amended and restated effective on the following dates: (i) August 5, 2002; (ii) June 4, 2007; (iii) October 15, 2007; (iv) November 5, 2007; (v) April 7, 2008; and May 5, 2008. In addition, the Ordinance was amended without restatement on January 20, 2009.

This seventh amendment and restatement of this Ordinance shall become effective on May 6, 2009 (the "Effective Date"). The Ordinance is restated in this manner solely to facilitate review by the reader by obviating the need to integrate multiple documents. Any declaration of a Water Shortage Condition made prior to the Effective Date and not rescinded shall remain in full force and effect. Though amended, this Ordinance shall be deemed to be continuously in effect such that enforcement of violations committed prior to the Effective Date shall continue unaffected. Pursuant to Article VII, Section 1(d), the first violation by a customer committed on or after January 1, 2009, shall be deemed the first violation of the calendar year for purposes of accrual of civil penalties; provided, however, that the customer shall remain liable for payment of all civil penalties assessed but unpaid.

Adopted this the 6<sup>th</sup> day of April, 2009.