Ordinance #26-__

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO REVISE CHAPTER 52 ARTICLE VI. WATER SHORTAGE RESPONSE AND CONSERVATION

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan and submitted to the Department of Environmental Quality for review and approval; and

WHEREAS, City Council approved an updated Water Shortage Response Plan dated November 2026; and

WHEREAS, revisions to Chapter 52 Article VI. Water Shortage Response and Conservation are necessary to improve implementation and enforcement of the Water Shortage Response Plan's measures and procedures.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article VI. –Water Shortage Response and Conservation of Chapter 52 of the Code of Ordinances be amended as follows:

ARTICLE VI. WATER SHORTAGE RESPONSE AND CONSERVATION[1]

Definitions: The following definitions apply, except where the context clearly indicates a different meaning:

Customer means any person in whose name the city maintains an account for water use, or who is responsible for payment of water passing through a particular meter. All customers are responsible for any use of water that passes through the meter for which they have an account or are otherwise responsible and are deemed to be users hereunder.

Drought means a condition in which the combination of many complex factors acting and interacting with the environment results in water supplies not being replenished normally. For purposes of this article, a drought occurs when existing water supplies cannot meet established demands for a period of time.

Manager means the city manager for the City of Hendersonville, or authorized designee.

Non-essential water use means those uses that have no safety or health impacts, are not required by regulation and are not needed to provide core functions.

Nonresidential user means any person who uses city potable water, other than a residential user; includes those users who purchase city water in bulk.

Normal usage means water usage by a customer, as calculated for a specific customer or customer class (i.e., residential, commercial, industrial, etc.), based on an annualized monthly average use. For

determining a seasonal, "normal" usage, calculate the usage for a three-month billing period, consecutive to the usage month in question, for the current year and the previous year. This approach is intended to compare a customer's usage pattern during several similar usage periods based on seasonal demands and usage patterns, during which time there were no water usage restrictions in affect due to drought or any condition on the customer's side of the meter that might erroneously alter the calculated normal usage; as determined by the utilities director.

Person means any individual, partnership, firm, corporation, limited liability company, or other legal entity in whose name water is provided and billed by the city; includes all federal, state and local governmental entities.

Potable water or *treated water* means any treated water introduced by the city into its potable water distribution system and is intended for human consumption, including water purchased from other entities.

Raw water means all water available to the city for treatment by virtue of the city's water rights or withdrawal permits.

Repeated or flagrant wasting of water means and includes those situations where persons who have received informal or formal notice that they are wasting water while watering continue to water in the same manner. It does not mean those persons who waste water while watering on solitary or isolated occasions.

Residential user means any person who uses city water received through a meter serving a single-family dwelling unit, but not a meter serving multi-family dwelling units (i.e., apartments, townhouses and other units deemed nonresidential by the city), educational or other institutions, hotels, motels, or similar commercial establishments (which are deemed to be nonresidential users).

User means any person using city potable water, and includes residential and nonresidential users.

Utilities director means the director of the city's water and sewer department, or authorized designee.

Significant Water User means any water customer whose average daily water usage is 25,000 gallons or more, based on available metered water use data.

Water shortage means a shortage of potable water in the city due to a raw water shortage, water system shortage or any other water shortage.

Raw water shortage means a shortage of raw water available for the city to treat. Raw water shortages are most commonly caused by drought conditions, but may have other causes, including problems with the raw water intake or pipes or in-stream contamination.

Water system shortage means a shortage of potable water in the city due to problems with the city's water treatment or distribution system or affecting the city's ability to treat, transmit or store treated water.

Other water shortage means a shortage of potable water in the city due to causes other than raw water shortage or water system shortage, including any declaration of emergency or call for water use restrictions by state or federal agencies or any unforeseen circumstance such as contamination which may or does result in treated water supply not meeting normal water demand.

Water shortage response plan (WSRP) means a plan to respond to an actual or threatened water shortage. The plan may include a voluntary water use reduction stage (water shortage "advisory" stage),

a mandatory water use reduction stage (water shortage "alert" stage) and an emergency water use reduction stage (water shortage "emergency" stage).

Sec. 52-436. Purpose of article and Authority

A water shortage shall generally be deemed to exist when public water supplies are diminished; water demand by customers connected to the city-owned water system reaches the point where continued or increased demand will equal or exceed the system supply and transmission capabilities; or any other event or condition determined by the utilities director and city manager where customers cannot be supplied with water to protect public health and safety, then the demand must be substantially curtailed to relieve the water shortage.

Authorization. The city manager is hereby authorized to prepare procedures to implement these water shortage response measures and to provide such other conditions and provisions as may be necessary to successfully carry out the goals of this section. These water shortage response measures shall be adopted and updated from time to time in accordance with G.S. 143-355.

Sec. 52-437. Water Shortage Response Plan

City Council shall maintain a Water Shortage Response Plan establishing the following:

- response stages
- trigger conditions
- water use classifications
- mandatory and voluntary conservation measures
- notification procedures
- enforcement procedures
- variance procedures
- other operational requirements necessary to manage water shortages.

Sec. 52-438. Declaration of Water Shortage

Upon recommendation of the Utilities Director, or when otherwise warranted by system conditions, the City Manager may declare, modify, or terminate any Water Shortage Response Stage identified in the adopted Water Shortage Response Plan.

Sec. 52-439. Compliance

During any declared Water Shortage Response Stage, all utility customers, including wholesale customers, shall comply with the applicable restrictions, prohibitions, and conservation measures established in the adopted Water Shortage Response Plan.

Sec. 52-440. Enforcement

(a) Any violation of the provisions of this article may be enjoined and restrained as provided in G.S. 160A-175.

(b) *Application, violation, enforcement, penalties.* This section applies to all persons using city water, inside and outside the city limits, regardless of whether they have a contract for water service with the city, provided mandatory schedules or limits shall not apply to any public or volunteer fire department while fighting a fire. A customer of the city shall be responsible for all violations that occur associated with water that passes through the meter for which the customer is billed by the city. Any person who uses water in violation of a restriction, schedule or ban imposed on the use of water during mandatory or emergency stages of drought, or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, shall be subject to the penalties listed below:

(1) *Enforcement by law enforcement.* Upon the declaration of mandatory stages , declaration of emergency stage, or during any period of rationing, the manager, every police officer of the city and all others so authorized by the city may enforce any restrictions or bans imposed on the use of city water outlined in adopted Water Shortage Response Plan.

(2) *Suspicion of violation.* Whenever the city has reasonable cause to believe that a person is violating any of the provisions of the adopted Water Shortage Response Plan or declaration or action plan adopted hereunder, the city shall immediately notify that person of the violation by affixing a written notice of violation (NOV) to the property where the violation occurred and/or personally delivering or mailing such notice to the customer of record and to any other person known to the city who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured or abated immediately or within such specified time as the manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed or imposed. If the order is not complied with within the allotted time period, the manager may undertake enforcement action as follows.

(3) *Enforcement action.* Violations are assessed according to the following schedule depending on the number of prior violations and current level of water shortage:

Offense	Stage 1: Water Conservation Advisory (Voluntary Restrictions)	Stage 2, Water Shortage Alert (Mandatory Restrictions)	Stage 3, Water Shortage Warning (Mandatory Restrictions)	Stage 3: Water Shortage Emergency (Mandatory Restrictions)
First	N/A	Notice of Violation (NOV)	Notice of Violation (NOV)	Disconnection of water service (24-hr. shut-off)
Second	N/A	Disconnection of water service (24-hr. shut-off)	Disconnection of water service (24-hr. shut-off)	$500 civil penalty and disconnection of water service at the main
>2	N/A	$500 civil penalty and disconnection of water service at the main	$500 civil penalty and disconnection of water service at the main	$500 civil penalty and disconnection of water service at the main

Sec. 52-441. Discontinuance of service.

Pursuant to the provisions of G.S. 160A-312 and this article, service shall be discontinued for willful disregard of this article and a reconnect fee may be imposed before restoration of service. In the event of continued gross noncompliance of this article, the removal of meter or connection of service at the water main will be deemed proper, service will be discontinued and fines levied. Reconnection of service shall only be made when all amounts due to the city are paid in full to the city.

Sec. 52-442. Variances

(a) Any person may submit an application to the utilities director for a variance from specific requirements of mandatory or emergency water use schedules, specifying the desired amount and schedule of water use and why the variance is necessary to protect public health and welfare or to maintain minimum standards of sanitation and hygiene. Each request shall be reviewed by the variance request committee, appointed by the utilities director. The variance request committee's decision shall be final and without appeal.

(b) All variances issued are only effective for that water shortage event and should be reapplied for if another and separate water shortage event occurs.

(c) If anyone that is issued a variance is found to be in violation of the terms of said variance, that variance shall be rescinded immediately; notice of which may be either written or verbal.

Sec. 52-443. Water Shortage Rates

In accordance with the adopted Water Shortage Response Plan; or at such other times as the city council deems necessary, the city council may, at any regular, special or emergency meeting, adopt water shortage rates designed to encourage water use reduction.

Further, due to situations brought on by drought or other special infrastructure needs associated with a water shortage, the city council may adopt special rates to further encourage water conservation. Any such rates may take effect as directed by city council.

Sec. 52-455. Water Conservation Incentives Program.

Water Conservation Incentives program are offered to recognize conservation efforts by customers. The city may offer incentives to customers in an effort to encourage perpetual water conservation. Some examples of conservation efforts that may be recognized by the city include, but are not limited to, efficient water fixtures, high efficiency washers,[1] smart irrigation systems with weather-based controllers. Rebates may be offered by the city as incentives and will be a one-time offering, if and when available, at the discretion of city council.

[1] City shall require installation by licensed professional; verification of same is required for rebate eligibility. **Secs. 52-456—52-480. Reserved.**

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of November, 2026

Attest:

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Barbara G. Volk, Mayor, City of Hendersonville

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Jill Murray, City Clerk

Approved as to form:

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Angela S. Beeker, City Attorney