

D R A F T
BY-LAWS
of the
UPPER CAPE FEAR RIVER BASIN ASSOCIATION, INC.

ARTICLE I- NAME, ORGANIZATION, AND ADDRESS

1. **Name:** The name of this organization shall be the Upper Cape Fear River Basin Association, Inc. (UCFRBA).
2. **Organization:** The Corporation shall be an incorporated non-profit organization.
3. **Principal Office:** The location of the principal office of the Corporation shall be determined by resolution of the Board of Directors.

ARTICLE II- MISSION AND OBJECTIVES

1. **Mission Statement:** The Mission of the Corporation shall be to provide a watershed coordination process and forum that can be used to facilitate (a) protection and restoration of the water quality of the Upper Cape Fear River Basin through innovative and cost-effective pollution reduction strategies, and (b) cooperation on water supply issues and other water resources issues within the Upper Cape Fear River Basin.
2. **Objectives:** Specific objectives of the Corporation shall be to:
 - a) Form a coalition of units of local government, public and private agencies, and other interested and affected communities, organizations, businesses and individuals to secure and pool financial resources and expertise;
 - b) Develop, implement and manage a coordinated water quality monitoring, analysis and research program in partnership with the North Carolina Division of Water Quality, the Cape Fear River Assembly, and other appropriate agencies and organizations;
 - c) Encourage and participate in the collaborative development, evaluation and implementation of cost-effective and environmentally-effective water quality management strategies for the Deep River Watershed and the Haw River/Jordan Lake Watershed which comprise the Upper Cape Fear River Basin;
 - d) Provide accurate technical, management, regulatory and legal recommendations to local, state and federal regulatory authorities regarding maintenance and improvement of water quality and water resource conditions within the Upper Cape Fear River Basin;
 - e) Provide input to and interact with regulatory agencies, local governments, local industries, academic institutions, the public, environmental and conservation

organizations, and other groups, by sharing the scientific and technical information gathered by this program concerning point and non-point sources of pollution; and

- f) Promote public awareness and understanding of the water resource issues concerning the Upper Cape Fear River Basin, and the interrelationship of the Upper Cape Fear River Basin and the Middle and Lower portions of the Cape Fear River Basin.

3. **Political Affiliations:** The Corporation will exclude from its permissible activities any political actions which would favor one party over another or one region over another. Furthermore, the Corporation will not participate in or intervene in any political campaign on behalf of any candidate for office, nor will the Corporation in any substantial or material way carry on propaganda activities or otherwise attempt to influence legislation.

It is the express purpose of the Corporation to engage in the above-listed activities only to the extent that such activities comport with the exemption from income tax provided by Section 501(c)(3) of the Internal Revenue Code.

ARTICLE III- DEFINITIONS

For purposes of these By-laws, the following terms and phrases shall have the respective meanings indicated for each:

1. **“Affiliate Member”** is a non-voting member of the Corporation, but has certain rights regarding notice of and participation in meetings of the Corporation.
2. **“Agencies”, “organizations” and “businesses”** shall include public, private and non-profit agencies, organizations and businesses.
3. **“Alternate Director”** is an individual appointed by a Corporate Member to represent that Corporate Member on the Corporation’s Board of Directors, in the event of an absence of the Corporate Member’s Director.
4. **“Corporate Member”** is a voting member of the Corporation, with representation on the Corporation’s Board of Directors.
5. **“Corporation”** is the Upper Cape Fear River Basin Association, Inc.
6. **“Director”** is an individual appointed by a Corporate Member to represent that Corporate Member on the Corporation’s Board of Directors.
7. **“Units of local government”** shall include towns, cities and counties, and public water and wastewater service providers within the Upper Cape Fear River Basin.
8. **“Upper Cape Fear River Basin”** is the geographic area from the headwaters of the Cape Fear River to the confluence of the Haw and Deep Rivers.

ARTICLE IV- MEMBERSHIP

- 1. Corporate Membership:** Corporate voting membership shall be open to (a) all units of local government with land use responsibilities in the Upper Cape Fear River Basin and (b) each local government, industry or other organization using the Upper Cape Fear River Basin for water supply or treating and discharging of wastewater within the Upper Cape Fear River Basin. Each Corporate Member shall have the authority to appoint one Director and one Alternate Director to the Board of Directors.
- 2. Affiliate Members:** The Board of Directors may, from time to time as it deems necessary and desirable, and upon request, appoint other agencies, organization and businesses to be affiliated with the Corporation. Affiliate members are not voting members of the Corporation, but are entitled to certain rights as provided in Article 6, Section 3 and Section 6. Affiliate Memberships are hereby automatically granted to the Cape Fear River Assembly, the Lower Cape Fear Program, the Middle Cape Fear River Basin Association, Piedmont Triad Council of Governments, and Triangle J Council of Governments, the Haw River Assembly, the Piedmont Land Conservancy and the Triangle Land Conservancy.
- 3. Joining the Corporation:** Any eligible local government, agency, organization, or business may become a member of the Corporation by signing a resolution or letter of intent to participate in and support the activities of the Corporation, and by paying the current annual membership fees established pursuant to Section 6 of this Article.
- 4. Representation:** Each Corporate member shall have the right to designate one primary representative (hereafter referred to as Director) and one alternate representative (hereafter referred to as Alternate Director) to the Board of Directors. A Corporate Member's Alternate Directors may attend meetings and participate even if that Corporate Member's Director is present; however, Alternate Directors may only vote in the absence or abstention of the Director. Affiliate Members shall have the right to designate one primary and one alternate non-voting representative to participate in the deliberations of the Corporation.
- 5. Termination of Membership:** Membership may be terminated voluntarily by a Corporate Member with one-hundred and eighty (180) days notice to the Board of Directors. Membership may be terminated by a majority vote of the Board of Directors for just cause as determined by the Board, including failure to pay any required membership fees. No Corporate Member may be expelled or suspended, and no membership may be terminated or suspended, except in a manner that is fair and reasonable and is carried out in good faith. Termination of membership shall be preceded by notice to the member not less than ninety (90) days prior to the effective date of termination.
- 6. Membership Fees:** The Board of Directors shall determine the annual Corporation Membership fees. Fees collected from Corporate Members and/or other sources shall be used to fund the monitoring, analysis, research, public education, and other activities of the Corporation as approved by the Board of Directors. Membership fees may be based on population, rates of water withdrawal and/or wastewater discharge, permitted facility capacities, applicability of Corporation projects to the member, the availability of

supplemental funding, and other factors the Board of Directors determines appropriate to consider in establishing such fees.

- 7. Decisions Concerning Corporate Membership Funding and Special Fees For Sub-Basin Specific Projects:** If a project proposed to be undertaken with Corporate membership funds is determined by the Board of Directors to clearly benefit those Corporate Members that are located in either only the Haw River/Jordan Lake Sub-Basin or Deep River Sub-Basin (for example, funding for a proposed calibrated nutrient response model for the Jordan Lake watershed that does not directly benefit members in the Deep River Basin), or within any other specially designated sub-basin as established by the Board of Directors, then Corporate membership funds used for such projects shall be provided through special fees charged to those Corporate Members that directly benefit from said project. If special fees are proposed for projects specific to either the Haw River/Jordan Lake Sub-Basin or the Deep River Sub-Basin, or any other specially designated sub-basin then said special fees must first be approved by a majority of the Directors representing the Corporate Members from the sub-basin in which the special fees apply.

ARTICLE V- BOARD OF DIRECTORS

- 1. General Powers:** The Board of Directors shall manage the business and affairs of the Corporation. In addition to the power and authority expressly conferred upon it by these By-laws, the Board of Directors may exercise all powers of the Corporation and do all such acts and things not otherwise prohibited by law or the Articles of Incorporation.
- 2. Number and Appointment:** The number of Directors constituting the Board of Directors shall be one (1) per voting Corporate Member, with one (1) Alternate Director per voting Corporate Member who shall serve in the absence of the Corporate Member's Director. The exact number of Directors may be fixed by resolution of the Board of Directors from time to time; provided, however, that an increase or decrease in the number of Directors only becomes effective by an affirmative vote of two-thirds (2/3) of the Board of Directors. Each Director shall hold office for a period of three (3) years or until his resignation, retirement, removal, disqualification or his successor is appointed and qualified.
- 3. Removal:** Each Director or Alternate Director shall be subject to removal and replacement at the pleasure of the Corporate Member he or she represents.
- 4. Resignation of Directors:** Any Director may resign at any time by giving notice thereof in writing to the Chair or Secretary of the Corporation and the appointing authority. Such resignation shall take effect at the time specified by the Chair or Secretary unless it shall be necessary to accept such resignation by its terms before it becomes effective, in which event the resignation shall take effect upon its acceptance by the Board of Directors.
- 5. Vacancies:** In the event of any vacancy occurring in the Board of Directors due to death, resignation, removal, disqualification or otherwise, such vacancy shall be filled as soon as is practicable by appointment in accordance with the manner in which the vacating Director obtained office. Any Director so chosen shall hold office for the un-expired portion of the

term of the person whom the newly appointed Director succeeds and until his successor shall have been appointed and qualified, or until his death, or until he shall resign, be removed or shall become disqualified.

- 6. Compensation of Directors:** Directors shall not receive any compensation for their services as such.

ARTICLE VI- MEETINGS OF THE BOARD OF DIRECTORS

- 1. Meeting Frequency:** A regular annual meeting of the Board of Directors shall be held on such date and at such time and place as may be set by the Board of Directors. In addition, the Board of Directors may conduct additional regular meetings at such times and places as the Board of Directors shall determine. All meetings will be held in accordance with North Carolina open meetings statutes.
- 2. Special Meetings:** Special meetings of the Board of Directors may be called by or at the request of the Chair, Vice-Chair or Secretary or a minimum of four (4) Directors. The person or persons authorized to call special meetings of the Board may fix any place within any of the participating Units of Local Government as the place for the holding of such special meeting.
- 3. Notice of Meetings:** Notice of each meeting of the Board of Directors shall be in writing, shall state the place, day and hour of the meeting and, in the case of a special meeting, shall state the purpose or purposes for which such meeting is called. Each such notice shall be given in accordance with the State of North Carolina's open meetings laws. All notices shall be delivered personally or sent by mail or facsimile to (a) each Director and Alternate Director at his or her address as shown in the records of the Corporation, and (b) each Affiliate Member, and shall be given not less than seven (7) days prior to the date of such meeting. If such notice is given by mail, said notice shall be deemed to have been given when deposited in the United States Mail, with first-class postage thereon.
- 4. Quorum:** A quorum shall consist of one-third of the current Directors, present in person or by proxy. A majority of the Directors present at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time until a quorum is present. The Board of Directors may act by consensus or majority vote of the Directors present. Voting may take place by telephone conference, facsimile, by written ballot, or by vote at a duly called meeting. Once a quorum is present at a meeting, the exiting or abstention of any Director shall not remove such quorum and all business which otherwise could have been conducted at such meeting may continue to be conducted.
- 5. Proxy:** A Director may be represented at any meeting or meetings of the Board of Directors or vote and exercise any other rights at any meeting by proxy or proxies appointed in writing signed by such Director and delivered by mail or facsimile to the Secretary of the Board at the time of such meeting.

6. **Voting:** Except as otherwise expressly provided by statute or by the Articles of Incorporation or by these By-laws, the action of a simple majority of the directors present and voting at a meeting at which a quorum is present shall be the action of the Board of Directors. Each Corporate Member shall be entitled to one (1) Director and one (1) vote on any matter coming before the Board of Directors of the Corporation. Affiliate Members shall be provided an opportunity to offer comments and recommendations to the Board of Directors prior to the Board of Directors voting on a substantive issue.
7. **Rules of Order:** All meetings shall be conducted according to Robert's Rules of Order, newly revised, except as otherwise noted in these By-laws.

ARTICLE VII- OFFICERS OF THE BOARD OF DIRECTORS AND CORPORATION

1. **Number:** The Officers of the Board of Directors shall consist of a Chair, a Vice Chair, a Secretary, and a Treasurer (the last two of which offices may be held by the same person). The Board of Directors may appoint an Assistant Secretary to provide certain staff services for the Corporation, and may, from time to time, create and establish the duties of such other officers as it deems necessary for the efficient management of the Corporation.

The Officers of the Board of Directors shall also be the Officers of the General Membership and shall serve as the Executive Committee of the UCFRBA Board of Directors.

2. **Election and Term:** All Officers shall be elected biannually by the Board of Directors at the annual meeting of the Board. Each officer shall serve a term of two (2) years, running concurrently with the Fiscal Year of the Corporation, or until their successors shall have been duly elected and qualified.
3. **Removal:** Any Officer or agent elected or appointed by the Board of Directors may be removed, with or without cause, by a majority vote of the entire Board of Directors at any meeting provided prior due notice of such purpose has been given to the Directors.
4. **Vacancies:** Vacancies caused by resignation, removal, or demise of an Officer shall be filled by appointment by the Chair for a remainder of the un-expired term.
5. **Duties:** The duties of the Officers shall be as follows:
 - a) **Chair:** The Chair shall: (i) preside at all meetings of the Board of Directors; (ii) enforce these By-laws and perform all duties incident to the office and which are required by law; (iii) possess the right and power to sign all duly authorized documents and instruments; (iv) generally supervise and control the day-to-day business and affairs of the Corporation; (v) have the authority to appoint standing or ad hoc committees as he deems necessary; and (vi) perform whatever additional duties and have whatever additional powers the Board of Directors may from time to time assign.
 - b) **Vice Chair:** During the absence or incapacity of the Chair, the Vice Chair shall perform the duties of the Chair and when so acting shall have all the powers and be

subject to all the responsibilities of the office of the Chair and shall perform such duties and functions as the Board of Directors may prescribe.

- c) **Secretary:** The Secretary shall: (i) keep accurate records of the acts and proceedings of all meetings of the Board of Directors and committees of directors; (ii) have the authority to give all notices required by law or these By-laws; and (iii) be custodian of the corporate books, records, contracts and other documents. The Secretary may affix the Corporate seal to any lawfully executed documents requiring it and shall sign such instruments as may require a signature. The Secretary shall perform whatever additional duties and have whatever additional powers the Board of Directors may from time to time assign. The Secretary may delegate certain administrative responsibilities to employees or staff members but may not relieve himself of liability as an Officer of the Corporation.
 - d) **Treasurer:** The Treasurer shall have custody of all funds and securities belonging to the Corporation and shall receive, deposit and disburse the same under the direction of the Board of Directors pursuant to a duly adopted corporate resolution. The Treasurer shall keep full and true accounts of all receipts and disbursements and shall make such reports of the same to the Board of Directors. The Treasurer shall perform whatever additional duties and have whatever additional powers the Board of Directors may from time to time assign.
 - e) **Executive Director:** The Board of Directors may, when deemed necessary, employ an Executive Director who shall be the chief administrative official of the Corporation. The Executive Director would be responsible for the administration of Corporation affairs placed in the Executive Director's charge under these By-laws or by resolution adopted by the Board of Directors.
6. **Meeting Frequency:** Officers shall meet at least semi-annually to conduct the business of the Corporation and shall be responsible for conducting the day-to-day activities of the Corporation. The Chairman may call additional meetings of the Officers as necessary.
7. **Bonds:** The Board of Directors may by resolution require any or all of the Officers, agents or employees of the Corporation to give bonds to the Corporation with sufficient surety or sureties, conditioned on the faithful performance of the duties of their respective offices or positions, and to comply with such other conditions as may from time to time be required by the Board of Directors.
8. **Compensation:** The Officers of the Corporation shall not receive any compensation for their services as such.

ARTICLE VIII- TECHNICAL ADVISORY COMMITTEE

1. **Duties and Responsibilities:** A standing Technical Advisory Committee (TAC) shall be responsible for providing the Board of Directors with assistance and recommendations concerning the development of proposed annual work programs, specific project plans, and alternative funding sources and strategies.

- 2. Membership and Organization:** Each Corporate Member and Affiliate Member shall have the right to appoint one primary and one alternate member to the TAC, and may change their TAC representatives at any time. Members of the TAC shall, with guidance from the Board of Directors, collectively decide how best to manage, organize and conduct the activities of the TAC. Ad Hoc Technical Committees may be appointed from time to time as necessary to consider and advise the Board of Directors on special issues or sub-basin specific projects.

ARTICLE IX- CONTRACTS, CHECKS AND DEPOSITS

- 1. Contracts:** The Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract, lease, or to execute and deliver any instrument on behalf of the Corporation, and such authority may be general or confined to specific instances. The Board of Directors may enter into employment contracts for any length of time it deems appropriate.
- 2. Checks and Drafts:** All checks, drafts or other orders for the payment of money issued in the name of the Corporation shall be signed using dual signatures by such manner as from time to time shall be determined by resolution of the Board of Directors.
- 3. Deposits:** All funds of the Corporation not otherwise employed from time to time shall be deposited to the credit of the Corporation in such depositories as the Board of Directors shall direct.
- 4. Financial Transactions:** All financial transactions will be in accordance with the North Carolina Local Government Fiscal Control Act.

ARTICLE X- CORPORATE PROPERTY

Any sale or transfer of stocks, bonds, securities or any other property standing in the name of the Corporation shall be valid only if signed by the Corporation acting through any two Officers, acting pursuant to authority given by resolution of the Board of Directors.

ARTICLE XI- MISCELLANEOUS

- 1. Fiscal Year:** The Corporation's Fiscal Year shall run from July 1 through June 30 of the following calendar year; provided, however, that the Board of Directors is authorized to change the Fiscal Year of the Corporation from time to time as it deems appropriate.
- 2. Seal:** The Corporate seal shall be in such form as the Board of Directors may from time to time determine.
- 3. Annual Audit:** Not later than four (4) months after the close of each Fiscal Year, the Corporation shall have an independent audit prepared detailing the financial condition of the Corporation. The audit shall comply with the Office of Management and Budget Circular or State single audit applicable.

- 4. Inspection of Books and Records:** The Board of Directors shall have the power to determine which accounts, books and records of the Corporation shall be open to inspection and shall have power to fix reasonable rules and regulations, not in conflict with the applicable law, for the inspection of such accounts, books and records.

ARTICLE XII- INDEMNIFICATION

Any person who at any time serves or has served as a Director, Officer, employee or agent of the Corporation for any other enterprise shall have a right to be indemnified by the Corporation to the fullest extent permitted by law against:

1. reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the Corporation, seeking to hold him liable by reason of the fact that he is or was acting in such capacity; and
2. reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty or settlement for which he may become liable in any such suit or proceeding.

The Board of Directors of the Corporation shall take all such actions as may be necessary and appropriate to authorize the Corporation to pay the indemnification required by this By-law, including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval by, the members of the Corporation.

Any person who at any time after the adoption of these By-laws serves or has served in any of the aforesaid capacities, for to have done so in reliance upon and as consideration, shall have the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of this By-law.

ARTICLE XIII- DISSOLUTION

The Corporation may be dissolved only by the vote of the majority of the Directors of the Corporation at a meeting to which due notice of such purpose has been given to the Directors. Upon dissolution of the Corporation, no Director, Officer, incorporator or employee of the Corporation shall be entitled to any distribution or division of its remaining property or proceeds. The balance of any money and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be distributed to one or more organizations which qualify for exemption from income tax under Section 501(c)(3) of the Internal Revenue Code (or the corresponding provision of any future federal tax law), with preference given to public and/or non-profit environmental and conservation organizations operating in the Upper Cape Fear River Basin. Such distribution is to be made to the extent practicable in a manner which benefits such organizations.

ARTICLE XIV- INTERPRETATION OF BY-LAWS

These By-laws shall be construed and interpreted under the laws of the State of North Carolina. Notwithstanding the foregoing, however, these By-laws shall at all times be construed and interpreted as consistent with all federal laws and regulations governing the activities of the Corporation and governing the tax exempt status of the Corporation. In the event that these By-laws may be determined inconsistent with such laws and regulations, the same shall be deemed amended to comply therewith. Whenever used in these By-laws, unless the context otherwise indicates, a pronoun in the masculine gender shall include the feminine gender and the singular shall include the plural, and vice versa.

ARTICLE XV- AMENDMENTS TO BY-LAWS

Amendments to these by-laws may be approved by an affirmative vote of the majority of the Board of Directors, provided written notice of the proposed changes have been provided to all Directors at least thirty (3) days prior to the meeting at which the vote is taken. Amendments shall take effect immediately upon their adoption unless specified otherwise in the amendment.

ARTICLE XVI- ADOPTION OF BY-LAWS

The Upper Cape Fear River Basin Association Board of Directors has approved these By-laws on the _____ day of _____ in the year _____, by a vote of _____ for to _____ against.

BY:

ATTEST:

Chair
UCFRBA, Inc.

Secretary
UCFRBA, Inc

Historical Notes to By-Laws:

Original Adoption:
Amendments (Section, Date):