GG
5/29/14
Item No. 17

AN ORDINANCE 2014-05-29-0376

AUTHORIZING UPDATES TO CHAPTER 34 OF THE CITY CODE TO IMPOSE A DROUGHT SURCHARGE TO DISTRICT SPECIAL PROJECT WATER CUSTOMERS DURING DESIGNATION OF STAGE IV OF THE CITY'S DROUGHT MANAGEMENT REGULATIONS, AND CERTAIN REVISIONS TO WATER USE RESTRICTIONS IN THE DROUGHT MANAGEMENT REGULATIONS APPLICABLE TO ALL SAN ANTONIO WATER SYSTEM (SAWS) AND DISTRICT SPECIAL PROJECT CUSTOMERS.

* * * * *

WHEREAS, pursuant to state law, the Edwards Aquifer Authority (EAA) is charged with conservation of ground water supply from the Edwards Aquifer and has instituted drought management regulations based on four "critical period" stages which are triggered when the water level in the Edwards Aquifer falls below certain thresholds; and

WHEREAS, when EAA critical period stages are triggered for San Antonio, permit holders, including SAWS, are required to reduce their annual allotment of ground water by 20% in Stage I, 30% in Stage II, 35% in Stage III, 40 % in Stage IV; and 44% in Stage V; and

WHEREAS, SAWS has instituted drought management regulations based on similar critical period stages which place drought restrictions on customers at every stage, including the imposition of a surcharge applicable to customers who violate Stage IV water use restrictions; and

WHEREAS, on January 12, 2012, SAWS assumed control of the former Bexar Metropolitan Water District ("BexarMet," also referred to as the District Special Project or "DSP") pursuant to a state mandate, and is in the process of integrating the DSP into SAWS; and

WHEREAS, DSP customers will continue to pay water rates set by the former BexarMet until integration with SAWS has been completed; and

WHEREAS, drought management regulations are applicable to DSP customers, however, the drought surcharge was not incorporated into the BexarMet water rate schedules, a situation which is now being addressed; and

WHEREAS, the proposed amendments to Chapter 34, Article II (Water Service and Rates) of the City Code as provided in Exhibit A would extend the Stage IV drought surcharge to DSP residential customers and any DSP customer assigned an irrigation meter at a rate of $0.4764 per 100 gallons, based on currently approved SAWS water rates, which would be imposed in addition to all other applicable fees and rates; and

WHEREAS, other proposed revisions to the drought management regulations found at Chapter 34, Article IV (Water Conservation and Reuse) of the City Code as provide in Exhibit B will be applicable to all SAWS and DSP customers and are summarized below:

- Extend use of sprinklers by one hour in the morning and evening blocks year round during non-drought stages and during Stage I drought restrictions on designated watering days:
    - Morning – begin at 12:00 am and end at 11:00 am (instead of 10:00 am)
    - Evening – begin at 7:00 pm (instead of 8:00 pm) and end at 11:59 pm
- Certain clean-up revisions to the enforcement provisions in order to clarify the "Responsible Party" who may be held liable for a violation of water use restrictions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The amendments to Chapter 34, Article II (Water Service and Rates) of the San Antonio Municipal Code attached as Exhibit A, are hereby approved, adopted, and incorporated into this Ordinance for all purposes. The revised rates shall be applicable to DSP water customers.

SECTION 2. The City Council finds that the revised DSP rates attached in **Exhibit A** are in the public interest; and are fair, reasonable, and non-discriminatory.

SECTION 3. The amendments to Chapter 34, Article IV (Water Conservation and Reuse) of the San Antonio Municipal Code attached as **Exhibit B,** are hereby approved, adopted, and incorporated into this Ordinance for all purposes. The revised drought management regulations shall apply to water use within the city limits of San Antonio and its extraterritorial jurisdiction.

SECTION 4. Within sixty (60) days of the effective date of this Ordinance, SAWS shall notify DSP water customers by billing insert of the application of the drought surcharge. In addition, a summary of the revisions to the drought management regulations as outlined in **Exhibit B** shall be published in a newspaper of regular circulation within the SAWS service area within two weeks of the effective date of this Ordinance.

SECTION 5. The City Council directs the City Clerk to amend the City Code as authorized in this Ordinance by submitting the revised Chapter 34 provisions to the Municipal Code Corporation as attached in **Exhibits A and B**.

SECTION 6. The recitals set out above are fully incorporated into this Ordinance.

SECTION 7. This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage. The amendments to Chapter 34 of the San Antonio Municipal Code, as found in Exhibits A and B shall become effective upon passage of this Ordinance.

GG
5/29/14
Item No. 17

PASSED AND APPROVED, this 29th day of May 2014.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Robbie F. Greenblum, City Attorney

Agenda Item:	**17 (in consent vote: 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 20, 21, 22, 24A, 24B)**
Date:	05/29/2014
Time:	11:33:53 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing updates to Chapter 34 of the City Code to impose the application of certain provisions related to drought restrictions to the District Special Project. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Director, Finance]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7	x					
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				x

EXHIBIT A

ATTACHMENT I

AMENDMENTS TO CHAPTER 34 OF THE SAN ANTONIO CITY CODE

The City Code of the City of San Antonio Chapter 34, Water and Sewers, Article II, Water Service and Rates is hereby amended by deleting the language that is stricken and adding the language that is underlined (added) as set forth herein.

Article II. Water Service and Rates

Section 34-128(b). Drought Surcharge Purpose, Definitions and Billing Cycles. Definitions

(i) Non-residential Irrigation Customer. A non-residential San Antonio Water System customer that is assessed the Irrigation rate and/or is billed for a portion of their water at the Irrigation rate using methodology established in Sec. 34-124(c), commonly referred to as "assumed irrigation customers". A non-residential District Special Project customer that receives water service under an account designated by the District Special Project as being solely irrigation in purpose. Using the Sec. 34-124(c) methodology. the District Special Project may determine that a regular non-residential District Special Project customer uses a portion of their water for irrigation purposes, in which case that portion of consumption shall be designated as "assumed irrigation".

(ii) Residential Customer. A residential customer that has water service that is assigned a residential rate~~.~~ under the rates of the San Antonio Water System or the District Special Project.

(iii) Residential Irrigation Customer. A customer that has both Residential and Irrigation service at a single service address~~.~~ under the rates of the San Antonio Water System or ~~as designated by~~ the District Special Project.

EXHIBIT B

Chapter 34 WATER AND SEWERS*

***Charter references:** Authority of city to acquire and maintain property for water and sewer systems, § 3, par. 13(1), (23); powers with respect to sanitary sewer system, § 3, par. 10; public works department, § 60 et seq.

Cross references: Buildings generally, § 6-1 et seq.; fire prevention, § 11-1 et seq.; flood plains, § 12-1 et seq.; swimming pools, § 15-186 et seq.; standards and specifications for mobile home parks, § 18-61 et seq.; swimming in city parks, § 22-86; fishing in city parks, § 22-101; plumbing, § 24-1 et seq.; streets and sidewalks, § 29-1 et seq.; subdivisions, § 30-1 et seq.; zoning, § 35-1 et seq.

State law references: Authority of home rule cities to enact ordinances more stringent than minimum state standards with respect to water and sewage, Vernon's Ann. Civ. St. art. 4477-1, § 23.

Art. IV. Water Conservation and Reuse, §§ 34-271--34-425

Div. 1. Regulated Activities, §§ 34-272--34-286
Div. 2. Water Waste Enforcement, §§ 34-287--34-300
Div. 3. Reserved, §§ 34-301--34-315
Div. 4. Drought Management Plan, §§ 34-316--34-350
Div. 5. Reserved, §§ 34-351--34-425

ARTICLE IV. WATER CONSERVATION AND REUSE*

***Editor's note:** Ord. No. 80574, § 14, adopted Aug. 4, 1994, repealed former Art. IV, §§ 34-271--34-283, relative to liquid waste transportation and disposal regulations, which derived from Ord. No. 64987, adopted May 7, 1987; and Ord. No. 69740, adopted June 29, 1989. Said Ord. No. 80574 enacted new provisions regarding similar subject matter which have been included in this chapter as Division 4 of Article V, § 34-511 et seq.

Sec. 34-271. Definitions.

As used in this Chapter 34 Article 4 Divisions 1-4, the following terms shall have the following meanings:

Advanced plan means:

a) As it related to athletic fields, submitted to and approved by SAWS, an irrigation schedule based on precipitation rates for irrigation systems that allows athletic fields to be irrigated more than one day a week.

b) As it relates to water features , submitted to and approved by SAWS, owner certification that the water feature is in good working order, to include the Outdoor water feature conservation plan and advanced monitoring methods that allow the operator to receive real time data regarding water use.

Agricultural irrigation means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Air conditioning system(s) means a mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this

division, an air conditioning system does not include window units.

Athletic field means a sports playing field, the essential feature of which is turf grass, used primarily for organized sports for schools, professional sports, or sanctioned league play.

Automatic irrigation controller means a device that automatically activates and deactivates an irrigation system at times selected by the operator.

Automatic pool drain/ overflow system means the removal of pool/ spa surface water through the use of overflows and surface water collection systems of various design and manufacture.

Automatic pool fill means a water level sensing device that can control a valve to add make-up water to a pool, spa, or water feature.

Automatic pool shut-off means the action of the automatic pool fill system is automatically turned off when desired water level is attained

Backwash/Backwashing means the process of cleansing the filter medium and/or elements by the reverse flow of water through the filter.

Base usage means the average monthly total water usage for the three (3) lowest months of November and December and the following January and February during each of the three (3) consecutive twelve-month periods preceding the commencement of the user's use of water.

Basic plan means:

a) As it relates to athletic fields, submitted to and approved by SAWS, an irrigation schedule for athletic fields that allows each athletic field at a particular location to be irrigated one day a week.

b) As it relates to water features, submitted to and approved by SAWS, owner certification that the water feature is in good working order to including the Outdoor water feature conservation plan.

Beneficial use means the amount of water that is economically necessary for a purpose not otherwise prohibited by the city, state or federal law or regulation, when reasonable intelligence and reasonable diligence is used in applying water for that purpose.

Blowdown meter means a meter that tracks the amount of water discharged from a cooling tower system.

Bucket means a deep, cylindrical container holding five (5) gallons or less, used singly by one person.

Cartridge pool filter means a filter that utilizes a porous element that acts as a filter medium.

Certified vehicle wash facility means a vehicle wash facility that meets the requirements of SAWS certified vehicle wash program.

Commercial dining facility means a business that serves prepared food and beverages to be consumed on the premises.

Computer controlled irrigation system (CCIS) means a system comprised of a computer controller (digital operating system), software, interface modules, satellite field controllers, soil sensors,

weather station, or similar devices that is capable of achieving maximum efficiency and conservation in the application of water for irrigation. A CCIS, at a minimum, should be designed to:
(1) Prevent over watering, flooding, pooling, evaporation and run-off, and
(2) Prohibit sprinkler system from applying water at an rate exceeding the soil holding capacity of the land under irrigation.

Concentration means re-circulated water that has elevated levels of total dissolved solids as compared to the original make up water.

Conductivity controller means a device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

Conforming means a golf course that has a CCIS in place and is utilizing the system to achieve maximum conservation and the goals of this division. Conforming facilities shall have a conservation plan approved and on file with SAWS.

Conservation department means the Conservation Department of the San Antonio Water System.

Cooling tower means an open water recirculation device that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process.

Dedicatory Instrument means a governing instrument for the establishment, maintenance, and operation of a residential subdivision, planned unit development, condominium, townhouse regime, or any similar planned development. Texas Real Property Code, Sec. 202.007(1).

Diatomaceous earth pool filter means a filter that utilizes a coating of diatomaceous earth (DE) or other filter media over a porous fabric as its filter medium.

Director of conservation means the director of the department of conservation of the San Antonio Water System.

Drip irrigation means an irrigation system (drip, porous pipe, etc.) that applies water at a predetermined controlled low-flow levels directly to the roots of the plant.

Drought for this article is not intended to be limited to any meteorological definition of the term. "Drought" is intended to have broad meaning and refers to any condition, whether man-made or natural, where the available water supply or resources are not meeting the water demand, or if the water supply or resources are being depleted at a faster rate than they are being replenished.

Evaporative shields means soft floating pads that have contact with the pool water surface to reduce evaporation, small enough and flexible enough not to present an entrapment or injury hazard to bathers.

Evapotranspiration rate (ET rate) means the rate which the combination of evaporation from soil surface and transpiration from vegetation will occur for specific climatic conditions.

Existing landscaping plant means a landscaping plant existing after such period of time as to accomplish an establishment and maintenance of growth.

Extra-territorial jurisdiction (ETJ) means the area adjacent to the City of San Antonio city limits where the City has regulatory control as provided for by the State of Texas.

Fountain means an artificially created jet or stream of water, a structure, often decorative, from which a jet or stream of water issues.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways, roughs and related areas used for the playing of golf.

Hand-held hose means a hose physically held by one person, fitted with a manual or automatic shutoff nozzle.

Health care facility means any hospital, clinic, nursing home or other health care or medical research facility.

Hose-end sprinkler means a sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Household use means the use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

Impervious surface means any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground.

Indoor water feature means any water feature located entirely in a conditioned space.

Industrial use means the use of water for or in connection with commercial or industrial activities, including but not limited to, manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, commercial uses of water for tourism, entertainment, and hotel or motel lodging, generation of power other than hydroelectric, and other business activities.

Irrigation system means a system of fixed pipes and emitters or heads that apply water to landscape plants or turfgrass, including, but not limited to, in-ground and permanent irrigation systems.

Irrigation system analysis means a zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements:

(1) Design appropriateness for current landscape requirements;

(2) Irrigation spray heads and valves;

(3) Precipitation rates expressed in inches per hour;

(4) Annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

(5) Location and account numbers of meters supplying the irrigation system should be described or identified on a map
(6) Location and verification of functional rain sensor

Irrigation suspension program (ISP) means a program administered by the Edwards Aquifer Authority pursuant to which agricultural irrigators within the Edwards Aquifer Authority's boundaries voluntarily agree to suspend some irrigation use of the underground water from the Edwards Aquifer in consideration for payments voluntarily funded by ISP participants.

Irrigation system, also referred to as an in-ground or permanent irrigation system, means a system with fixed pipes and emitters or heads the apply water to landscape plants.

Lake, lagoon **or** ***pond*** means an artificially created body of fresh or salt water.

Landscaping plant means any member of the Plant kingdom (Plantae), including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species, that grows or has been planted out-of-doors.

Landscape watering means the application of water to any landscaping plant member for growth or maintenance, but for purposes of this article does not include essential use without waste of water by a commercial landscape nursery to the extent the water is used for production rather than decorative landscaping.

Large property means a tract of land or several tracts of land managed as a group such as commonly found in neighborhood common areas or medians and street setbacks commonly found associated with commercial development regardless of the number of meters or individual parcel sizes associated with the property that equals or exceeds five (5) acres in size and has an irrigation system covering all or a portion of the property.

Large use property means any property that uses 1 million gallons of water or more for irrigation purposes in a single calendar year.

Low-flow toilet means a tank toilet that uses one and sixth-tenths (1.6) gallons of water or less per flush.

Livestock means cattle, sheep, goats, hogs, poultry, horses, and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

Livestock use means the use of water for drinking by or washing of livestock.

Maintenance level means the level of water in a swimming pool required for proper operation of circulation and filter equipment for the swimming pool.

Make-up meter means a meter that measures the amount of water entering a cooling tower system.

msl means elevation above mean sea level.

Mulch means any material such as bark, leaves, straw or other materials left loose

and applied to the soil surface to reduce evaporation.

Multi-Family means residential properties consisting of more than 2 individual dwellings

New landscape means any contiguous area where new landscape plant(s) are installed where no other planted plants currently exists. A new plant(s) added to an existing landscape is not considered a new landscape for the purposes of an establishment variance.

New landscaping plant means any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. Application of grass seed to an existing stand of grass or turf is not considered new landscaping for the purposes of this chapter.

Non-conforming means a golf course that is not conforming. Non-conforming golf courses must follow the reduction measures and guidelines set forth in section 34-332.

Non-potable tank means a tank installed to capture water generated on the property from rainwater, storm water, cooling towers, air condition condensate or other process that generates secondary water use as maybe found through an industrial process with the intent to use that captured water again on site.

Non-residential means a property, facility location, or owner that is not residential.

Non-residential water feature means a water feature associated with a non-residential facilities including but not limited to shopping centers, hotels, apartments, health care facility, schools, home and property owner associations, governmental entities

NPDES/TPDES permit holders means those entities that have valid state or federal permits commonly referred to as NPDES or TPDES [National Pollutant Discharge Elimination System/Texas Pollutant Discharge Elimination System] permits to satisfy requirements of the federal Clean Water Act.

On-site reclaim water means water generated on the property from rainwater, storm water, cooling towers, air condition condensate or other process that generates secondary water use as maybe found through an industrial process with the intent to use that captured water again on site.

Organic material means organic substances in differing Stages of decay.

Other outdoor use means the use of water outdoors for the maintenance, cleaning and washing of structure and mobile equipment, including automobiles and boats, or the washing of streets, driveways, sidewalks, patios and other similar areas.

Outdoor water feature conservation plan means a plan submitted to and approved by the SAWS Conservation department that includes owner contact information monthly water use, surface area, location, reduced hours of operation through the use of timers, and certified and verified by SAWS to be in good working order.

Park means a non-residential or multi-family tract of land, other than a golf course, maintained by a city, private organization, or individual, as a place of beauty or public recreation and available for use to the general public.

Person means any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious hardscape means patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground. Examples include flagstone set in sand and wood plank decks, but exclude concrete slab patios and sidewalks or pavers set with mortar and generally defined as impervious.

Pervious surface means any ground surface that can absorb water or other liquids.

Pool skimmer means a device installed in the pool or spa that permits the removal of floating debris and surface water to the filter.

Pool water features means fountains, spray jets, waterfalls, spillways, and similar water aerating devices, systems, or arrangements. Features not used for the sanitizing or filtration of the pool water.

Positive shut-off means a valve that is held in a closed position by system pressure until overridden by an outside force.

Power production use means the use of water for steam generation and the use of water for cooling and for replenishment of cooling reservoirs.

Power washer means a machine that uses water or a water-based product applied at high pressure to clean impervious surfaces.

Precipitation rate means the speed at which a sprinkler or irrigation system applies water. Precipitation rates are measured in inches per hour or inches per minute.

Prescribed hours for sprinkling means the hours of 12:00 a.m. and 11~~0~~:00 a.m. and ~~8~~7:00 p.m. and midnight when the Aquifer Management Plan, Article IV, Division 4 is not in effect, and during the hours specified therein when the Aquifer Management Plan Division 4 is in effect.

Private residential swimming pool means any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by the homeowner's family or invited guests.

Property address means the street address of a property, unless multiple street addresses are served by a single meter, in which case the mailing address will be used.

Public swimming pool means any swimming pool, other than a private residential swimming pool, intended to be used collectively by persons for

swimming or bathing, operated by any person as defined herein, whether owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use. The term includes, but is not limited to, apartment community pools, condominium association pools and community association pools

Public Park means as a place of beauty or public recreation owned by a governmental entity that collects sales or property for the property tax and available for use to the general public.

Rain sensor means a functioning device that detects the presence of precipitation and automatically interrupts an irrigation cycle and inhibits future irrigation cycles by means of an adjustable reset delay.

Recycled water means municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor means a person who requests a variance under this article.

Residential means a single or multi-family dwelling unit containing two (2) or fewer family units.

Residential landscape plan means a plan submitted to SAWS Conservation department for the purposes of seeking a variance to Sec 34-273(2)c and identifies specific plants, includes irrigation plans meeting all requirements found in Ch 34 Article 4 herein and TAC, Title 30, Part 1, Chapter 344.

Residential water feature means a water feature located at a residential dwelling.

River, stream **or** ***brook,*** means an artificially created flow of water in a channel or bed, as a brook, rivulet or small river.

Sand media filter means a filter using sand or sand and gravel as a filter medium. Also known as sand filters.

SAWS means the San Antonio Water System.

Soaker hose means a flexible hose that is designed to slowly emit water across the entire length and connect directly to a flexible hose or spigot. Does not include hose that by design or use sends a fine spray in the air. It is not considered drip irrigation.

Soil holding capacity means the amount of moisture in the soil that can occur without becoming saturated.

Spa means any sub structure associated with a swimming pool often described as a hot tub.

Sprinkler means an emitter that applies water to the landscape plants in a stream or spray that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a perforated hose that sprays water in the air.

Summer dormancy means the ability of turfgrass to survive without water for a period of sixty (60) consecutive days during the months of May through September in Bexar and the adjacent counties. Turfgrass with summer dormancy capabilities approved for use are set forth in the approved plant list. The approved plant list, as may be amended from time to time, shall be

available from SAWS and located at www.saws.org/conservation.

Swimming pool means any structure, basin, chamber, or tank including hot tubs, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two (2) feet or more at any point.

TCEQ means Texas Commission on Environmental Quality.

TDS means total dissolved solids.

Trigger level means the mean sea level of the Edwards Aquifer as indicated by the J-17 index well and/or as defined by the Edwards Aquifer Authority.

Turfgrass or turf means perennial ground cover plants and grasses that are adapted to regular mowing and foot traffic through management.

Vacuum system means a system, often consisting of a pump, chamber, and tubes, that is used to create a vacuum for any of a variety of purposes, including but not limited to medical, dental and industrial applications.

Vanishing edge pools means a water-feature detail in which water flows over the edge of at least one of the pool walls and is collected in a catch basin. Also known as negative edge pools.

Variance administrator means staff person in the department of Conservation responsible for administering and hearing variance requests under this article.

Vegetable garden means any non-commercial vegetable garden planted primarily for household use; "non-commercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Vehicle wash facility. A permanently-located business that washes vehicles with water or water-based product, including but not limited to self-service car washes, full-service car washes, roll-over/in-bay style car washes, and fleet maintenance wash facilities.

Vehicle wash fundraiser means any special-purpose vehicle wash event for which a fee is charged or donation accepted.

Waste means water used without obtaining maximum beneficial use thereof. Waste shall also include, but not be limited to, causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface, or upon the lands of another person or upon public lands. Waste shall also include, but not be limited to, any discharge of water used for commercial, industrial, municipal or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof. Waste shall also include, but not be limited to, failure to repair any controllable leak on property located within the San Antonio city limits or a water or waste water customer of SAWS located in the City of San Antonio ETJ.

Water means and includes, but not be limited to, potable water supplied by a

water purveyor, potable water withdrawn from any groundwater well, surface water from any river, creek, natural watercourse, pond, lake or reservoir, and recycled water supplied by a water purveyor.
(Ord. No. 92179, § 1, 7-27-00; Ord. No. 92503, § 1, 9-14-00)

Water conservation plan means a written document that must include proof of irrigation efficiency of sixty (60) percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for each Stage as described in Division 4. A plan includes plant material, precipitation rates and irrigation schedules with run times. SAWS Conservation department may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan.

Water feature means an artificially created body of water for aesthetic use including but not limited to fountains, waterfalls, ponds, lagoons, rivers, streams, and brooks as further defined herein.

Water flow restrictor means an orifice or other device through which water passes at a restricted rate.

Water holding capacity means the amount of moisture in the soil that can occur without becoming saturated.

Water utility use means water used for withdrawal, treatment, remediation, transmission and distribution by the water utility.

Waterfall means an artificially created steep descent of water from a height, cascade.

Watering day means a day designated for landscape watering limited to the standard 24-hour period of 12:00 a.m. to midnight. Thus, if it is Stage I and Wednesday is a designated watering day, the period of time referenced is Wednesday morning between 12:01 a.m. to 11~~0~~:00 a.m., and Wednesday evening between ~~8~~7:00 p.m. and midnight.

Wildlife habitat water feature means an established aquatic wildlife habitat that has actively sustained a variety of wildlife in a deliberative, inclusive ecosystem including plant material in and around the water, and fish in the water.

Xeriscape means a landscape consisting of a maximum of fifty (50) percent turfgrass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved plant list, as may be amended from time to time, shall be available from SAWS Conservation department and located at www.saws.org/conservation.

Zonal irrigation system means an irrigation system which segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

DIVISION 1. REGULATED ACTIVITIES

Sec. 34-272. Activities to be regulated on and after effective dates.

The following activities shall be regulated in the manner set out herein on and after the respective dates indicated in the sections and subsections. A person affected by such regulations may request a variance in the manner set out in section 34-276. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 34-277. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(1) ***Prescribed hours for sprinkling.*** Sprinkling with an irrigation system or hose end sprinkler is allowed between the hours of12:01 a.m. and 11~~0~~:00 a.m. and ~~8~~7:00 p.m. and midnight when Article IV, Division 4 is not in effect.

(2) ***Power washers.***
a. Effective January 1, 2006, a person who uses a power washer in any commercial manner or for compensation shall register with the director of conservation, and obtain a certificate for such use.
b. Exempted from this requirement are persons who use power washers for personal use at their own home and homebuilders who are performing a one-time clean up at a newly constructed house.
c. Holders of NPDES/TPDES permits are deemed certified.

Comment. This comment does not have force of law, but is offered for clarification only. The intent of this registration protocol is to complement and make effective mandates necessary to critical period conservation rules found elsewhere in this Code. The conservation rules in question are intended to prevent water waste under certain circumstances when critical periods are observed. Examples of persons subject to year round registration are those hired, employed or contracted to clean sidewalks, parking lots, commercial/public buildings and other impervious areas associated with commercial or domestic properties; professional painters; businesses using their own in-house power washers such as chain stores, grocery stores, and any other entity, public or private.

(2) ***Vehicle wash fundraisers.*** Effective March 1, 2005, any vehicle wash fundraiser shall be conducted at a vehicle wash facility using such facility's equipment.
(Ord. No. 100322, § 1(Att. A), 1-20-05)

Sec. 34-273. Activities to be regulated on and after January 1, 2006.

Except as provided by a specific and alternative application date, particularly systems analysis, the following activities shall be regulated in the manner set out herein on and after January 1, 2006. A person affected by such regulations may request a variance in the manner set out in section 34-277. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 34-278. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(1) ***Minimum irrigation area and flow direction.*** Newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both:
a. Dimensions less than five (5) feet in length and/or width; and,
b. Impervious pedestrian or vehicular traffic surfaces along two (2) or more perimeters.

(2) ***Pop-up sprays.*** Where pop-up sprays and rotor heads are allowed in newly installed irrigation systems:
a. They must direct flow away from any adjacent impervious surface; and
b. Shall not be placed within four (4) inches from an impervious surface; and
c. Irrigation systems newly installed after January 1, 2010 in residential dwellings may not cover more than 10,000 square feet

of landscape with spray or rotor irrigation heads. The use of drip irrigation or micro-sprays may be used to expand the coverage size upon approval of the residential landscape plan by SAWS.

(3) ***Annual irrigation system analysis for athletic fields, golf courses, large use and large properties.***

a. An annual irrigation system analysis shall be required for all athletic fields, golf courses, large use and large properties and shall be submitted in writing to the SAWS Conservation Department on or before May 1st of each year. Golf courses, athletic fields, and large properties that meet the definition of large use and large use properties regardless of size including residential properties must have a licensed irrigator sign–off on the annual irrigation system analysis to document that the system does not have ongoing leaks, that any leaks found in the course of the audit have been repaired and that its operation does not result in water waste. Golf courses, other than those utilizing recycled water for irrigation in accordance with an agreement with SAWS, shall comply with residential irrigation requirements on areas other than tee boxes, fairways and greens.

b. Municipal tenants and lessees of golf courses, sports and athletic playing fields, and any other municipally owned properties, shall be responsible for compliance with this section and subsection. SAWS shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant/lessee to assume the tenant/lessee's responsibility for compliance.

(3) ***Cooling towers.*** **Effective January 1, 2006:**

a. Cooling towers, not utilizing recycled water, shall operate a minimum of four (4) cycles of concentration.

b. Newly constructed cooling towers shall be operated with conductivity controllers, as well as make-up and blowdown meters.

c. Cooling tower owners of existing cooling towers shall register their cooling tower with the SAWS Conservation department by May 1 2013. New cooling towers shall be registered with the SAWS Conservation Department prior to the start of operation.

(4) ***Ice machines.*** Newly installed ice machines shall not be single pass water-cooled.

(5) ***Commercial dining facilities.*** Commercial dining facilities shall:

a. Serve water only upon request.

b. Utilize positive shut-offs for hand-held dish-rinsing wands.

c. Utilize water flow restrictors for all garbage disposals.

(6) ***Vehicle wash facilities.***

a. Vehicle wash facilities, commencing operation on or after January 1, 2006, using conveyorized, touchless, and/or rollover in-bay technology shall reuse a minimum of fifty (50) percent of water from previous vehicle rinses in subsequent washes.

b. Vehicle wash facilities, commencing operation on or after January 1, 2006, using reverse osmosis to produce water rinse with a lower mineral content, shall incorporate the unused concentrate in subsequent vehicle washes.

c. Regardless of date of operation commencement, self-service spray wands used shall emit no more than three (3) gallons of water per minute.

d. Vehicle wash facilities shall utilize self-service, rollover in-bay or conveyor washing technology with catchment systems and oil-water separators that are intended to treat wastewater prior to entering the sanitary sewer. Such systems shall be designed and maintained to prevent runoff into streets, storm drains and/or local creeks and tributaries.

(7) ***Vacuum systems.*** Vacuum systems shall not be water-cooled with single-pass potable water when alternative systems are available.

(8) ***Certain Plumbing Fixtures.***

When installing certain plumbing fixtures on or after January 1, 2010; gravity flush toilets, bathroom aerators, showerheads, urinals; in any location, residential, commercial, industrial, or institutional, the fixtures will meet or exceed the following performance standards; and where the Environmental Protection Agency has accepted that specific plumbing fixtures by make and model, meet or exceed the WaterSense standards, such fixtures installed will be from the most current listing available at the time of installation:

a. Gravity flush toilets shall have a maximum average water use of no more than 1.28 gallons per flush.

b. Faucet aerators for bathrooms shall have a maximum water flow of 1.5 gallons per minute.

c. Showerheads shall have a maximum water flow of 2.0 gallons per minute. All associated valves must be appropriate to the flows.

d. Urinals shall have a maximum water use of 0.5 gallons per flush.

(9) ***Coin Operated Washing Machines.***

a. All newly installed, leased or released coin/card operated washing machines, including but not limited to those that might be found in laundry-mats, apartment houses, dorms or communal use situations shall be selected from Consortium for Energy Efficiency (CEE) that meet or exceed the most current highest water and energy standards as determined by the CEE.

b. In any case all coin/card operated washing machines must meet or exceed the most current highest water and energy standards as determined by the CEE, by January 1, 2020.

(10) ***Hot water lines.***

Buildings without dedicated hot-water return lines with runs exceeding 20 feet between the heating element and the end use fixture shall be insulated with R-4 sleeve insulation.

(11) Pool construction requirements on or after May 1, 2013.

a. Private residential swimming pools shall not be installed with sand media filters.

b. Pool water features installed with public swimming pools or private residential swimming pools must be designed so that the water feature can be turned off without affecting the filtering capabilities of the pool.

c. Pools with shared water between the pool and a spa shall be designed so that water can be shared without the necessity of an above ground water feature that cannot be turned off. If a water feature between the spa and the pool exists, the default setting will be for it to be turned off.

d. Automatic pool fill features must be designed so that they may be turned off in both public swimming pools and private residential swimming pools. **e.** Automatic pool fill features must include an automatic pool shut-off feature.

f. Vanishing or negative edge pools must be designed with catch basins large enough to prevent splashing that leads to increased water use.

g. Backwash systems must be designed so they may be turned off.

h. Pool skimmers should be managed in such a way as to minimize water consumption. The range of allowable water within the skimmer fill range should allow for several inches of evaporative loss prior to filling.

i. All residential swimming pools shall have a hose end timer installed at the nearest hose bib location. In addition, a hose bib back-flow prevention device will be connected to the hose bib fixture nearest to the pool.

j. Pool companies that provide installation and/or maintenance services within the jurisdiction of this code must provide in writing to every customer specific information on maintenance requirements that include an emphasis on preventative measures for keeping pool water quality high and alternatives to draining pools to correct water quality problems unless draining is needed for physical repair.

(12) Non-potable tank registration.
a. All non-residential non-potable tank owners shall register tanks if combined storage on a single property is over 5000 gallons or there is potable water back-up, with the SAWS Conservation department by May 1, 2013 or prior to the start of operation if installed after May 1, 2013. Tanks that are utilized in industrial processing are exempt from this requirement.

b. All residential non-potable tank owners with potable water back-up, or in excess of 1000 gallons in size shall register their tanks with the SAWS Conservation department by May 1, 2013 or prior to the start of operation if installed after May 1, 2013.

(13) ***Non-residential Water Features.***
Non-residential water features installed after May 1, 2013 are required to be separately metered or sub-metered.

(Ord. No. 100322, § 1(Att. A), 1-20-05)

Sec. 34-274. Other activities to be regulated on and after January 1, 2006.

The following activities shall be regulated in the manner set out herein on and after January 1, 2006. A person affected by such regulations may request a variance in the manner set out in section 34-276. A violation of this section and subsections shall be subject to enforcement provisions set out in section 34-277. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(1) ***Condensate collection.*** Newly constructed commercial buildings installing air conditioning systems on and after January 1, 2006, shall have a single and independent condensate wastewater line to collect condensate wastewater to provide for future utilization as:
a. Process water and cooling tower make-up, and/or
b. Landscape irrigation water.
c. Any other beneficial on-site use.
d. Condensate wastewater shall not be allowed to drain into a storm sewer, roof drain overflow piping system, public way, or impervious surface.

(2) ***Rain sensors.*** Effective January, 1, 2006, rain sensors shall be installed and maintained in good working order on all irrigation systems equipped with automatic irrigation controllers.
(Ord. No. 100322, § 1(Att. A), 1-20-05)

Sec. 34-275. Landscaping regulations generally applicable on and after January 1, 2006.

Except as specifically provided with alternative effective dates, persons affected by the regulations set out herein below shall comply on and after January 1, 2006, and may request a variance to such regulations in the manner set out in section 34-276. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 34-277. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(1) ***Xeriscape option.*** Effective January 1, 2006, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

(2) ***Model.*** Effective January 1, 2006, homebuilders and/or developers who construct model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to a xeriscape design.

(3) ***Zonal system.*** In-ground irrigation systems installed on and after January 1, 2006, shall be zonal irrigation systems.

(4) ***Turfgrass soil support.***

a. Turfgrass installed during or associated with new construction on and after January 1, 2006, shall have a minimum of four (4) inches of soil under the turfgrass.
b. Drainage utility projects, water and power utility projects, public property maintenance or repair, and those governmental activities necessary to NPDES/TPDES compliance with federal or state rules and regulations implementing the federal Clean Water Act; or governmental actions to comply with the Americans with Disabilities Act, shall not be deemed new construction for purposes of this subsection.

(5) ***Turfgrass dormancy qualities.*** Turfgrass installed after January 1, 2007, shall have summer dormancy capabilities. A requirement to irrigate turfgrass that has summer dormancy capabilities is not allowed.

(6) ***Irrigation system use, setting and schedule recommendations.***
All irrigators installing irrigation systems permitted by the City of San Antonio or on property subject to this article shall provide to the irrigation system owner in writing a recommended seasonal irrigation schedule and instructions on how to use the irrigation system and set the controller. Seasonal schedules provided will be approved by SAWS Conservation Director or designee. The schedule will be affixed to the irrigation controller or an adjacent wall.

(7) Required City of San Antonio Irrigation Permits.
a. Where irrigation permits are required by the City of San Antonio, it is the responsibility of the licensed irrigator to ensure permits are secured. Failure to secure and pay for a permit as required for irrigation work is subject to penalties as described in Sec. 34-277 in addition to penalties that may be assessed under the City of San Antonio Unified Development Code.
b. If an irrigation system is found to be installed by an unlicensed individual or company, other than a homeowner working on his or her own residence, an additional violation may be issued under Sec. 34-277 in addition to penalties that may be assessed under the City of San Antonio Unified Development Code.
c. Failure to properly supervise installation of irrigation work by an on-site licensed irrigator or licensed irrigation technician is subject to penalties as described in Sec 34-277 in addition to penalties that may be assessed under the City of San Antonio Unified Development Code.

(8) Dedicatory Instruments.
a. A dedicatory instrument may not require the installation of an irrigation system.
b. A dedicatory instrument may not require turfgrass to be planted or irrigated

Legal comment. This comment does not have force of law, but is provided here for informational purposes only. The Texas Property Code, Chapter 202, Section 202.001, et. seq., entitled "Certain Restrictive Covenants," reflects a growing public interest in water conservation and its relationship to the public health, safety, and welfare.

Texas Property Code, Chapter 202, Section 202.007, provides that a property owners association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from implementing certain efficient irrigation systems, including underground drip or other drip systems. Any dedicatory instrument provision, attempting to restrict a property owner from installing such efficient systems, is void. Therefore, such restrictions, running counter to certain conservation efforts, cannot be enforced. Texas Real Property Code, Sec. 202.007(b).*Added by Acts 2003, 78 th Legislature, chapter 1024, § 1, Effective, September 1, 2003.*

As used within the Texas Property Code, "dedicatory instrument" means a governing instrument for the establishment,

maintenance, and operation of a residential subdivision, planned unit development, condominium, townhouse regime, or any similar planned development. Texas Real Property Code, Sec. 202.007(1).

The Texas Property Code also allows that a property owners' association may restrict the type of turf used by a property owner in the planting of new turf [in the future] in order to encourage or require water conserving turf.

According to the Texas Property Code, property owners' associations may regulate, by dedicatory instrument or other legal means, installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes.

The SAWS endorses and advocates the use of dedicatory instruments and other legal obligations among private parties which understandings may support and promote a culture of water conservation.
(Ord. No. 100322, § 1(Att. A), 1-20-05)

Sec. 34-276. Variances.

The authority to grant a variance and an appeal from such variance to the provisions of this division, is hereby delegated to the San Antonio Water System in the manner described herein. A determination by the San Antonio Water System pursuant to this section shall be deemed final for purposes of appeal. Appeal procedures are detailed below.

(1) ***Variance.*** A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within thirty (30) days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within thirty (30) days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the variance administrator when, in the administrator's judgment, to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case. In the latter situation, for purposes of justice and equity, the standard for allowing a variance application to be heard or considered are the common notions of rightness and fair play.

(2) ***Time, date, place.*** A person seeking a variance under these provisions shall make such request in writing to the conservation department. Such request shall be reviewed by the variance administrator. If the application, on its face, warrants a variance, the administrator may grant the request without hearing. Otherwise, the administrator shall review such request within thirty (30) days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing, if necessary.

(3) ***Representation and notice of SAWS' response, first hearing.*** The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The administrator and appropriate conservation department personnel shall hear the request. The requestor shall receive written notification by the administrator within thirty (30) days of the date of the hearing whether such variance is granted or denied.

(4) ***Appeal.*** In the event the variance is granted, the decision of the administrator shall be final. Should the variance be denied, however, the requestor shall have ten (10) days from receipt of the denial of the variance to seek an appeal in writing. Within thirty (30) days of the written request for an appeal from the denial of a variance, the director shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the director why such appeal should be granted. The director shall inform the requestor within thirty (30) days of the date of the

hearing of the appeal whether the appeal has been granted or denied. The determination of the director shall be final and shall be in writing. If a judicial appeal is pursued, applicant must take such appeal to district court or other court of competent jurisdiction within thirty (30) days of the director's final determination, which further appeal shall be pursued under appropriate standards of the substantial evidence rule.

(5) ***Variance qualifications***. Variances to the regulated activities in this division 1 may be issued through the department of conservation's variance administrator provided that the general intent of this division has been met, and compliance with Article IV, Division 1, is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with this division.

(6) ***Specific criteria to be used for the granting of variances.*** The SAWS director of conservation shall also develop specific criteria to be used for the granting of variances from the provisions of this division, which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the administrator and/or director prior to his/her variance application and/or appeal being heard.
(Ord. No. 100322, § 1(Att. A), 1-20-05)

Sec. 34-277. Enforcement.

(a) The president/CEO or his designee of the San Antonio Water System is hereby authorized to enforce this division in the manner and to the extent allowed by law, including, but not limited to, filing complaints with the city municipal prosecutor's office for such violations, serving notices of violations of this division, and filing civil enforcement actions. Such authorization does not diminish the city attorney's authority in regard to enforcement of Chapter 34 provisions.

(b) Responsible Party. ~~**Presumption and exception**~~. For purposes of this division, ~~it shall be presumed that~~ the San Antonio Water System water and/or waste water customer, property owner, occupant, or resident, ~~person who owns, occupies, or resides at associated with~~ of the property where~~at which~~ a violation is observed ~~and who exercises control over water use either because (i)either, in whose name a water meter connection is registered with the water purveyor servicing the property in the name of that person, or (ii) the person enjoys controls over water use for the property under the terms of a lease, or the property owner, ,or the lease,~~ shall be~~is~~ the responsible party ~~who has made, caused, allowed, or permitted~~ for a violation of the provisions of this division unless an alternate person is designated by the named meter holder and accepts responsibility and it is documented in writing by both– the alternate individual and the meter holder. ~~or~~ If there is no meter, ~~in which case~~ the property owner, occupant, or resident, ~~or leaseholder is presumed~~ shall be the responsible party.

~~Proof that the particular premises had a water meter connection registered in the name of the defendant cited in a criminal complaint filed pursuant to this division shall or a property owner or leaseholder, shall constitute a prima facie presumption that the defendant is a person who made, caused, allowed or permitted a violation pursuant to the provisions of this division. [Exception to this presumption is found in subsection 34-273(2), wherein a city, whose premises are used by a tenant/lessee, is generally not responsible for the tenant/lessee's compliance. In such cases the tenant/lessee of the city is responsible for compliance and the city shall have no duty~~

~~to enforce against the tenant/lessee except to the extent the city's municipal courts may be fully utilized by the SAWS enforcement officers or other duly authorized governmental personnel charged with enforcement duties.]~~

(c) The president/CEO or his or her designee is authorized and instructed to commence any action, in law or in equity, including the filing of criminal charges, deemed necessary for the purpose of enforcing this division. The San Antonio Water System president/CEO or the designee may seek civil penalties, as may be allowed by statute, and any other legal or equitable relief available under common law, Chapter 54 of the Texas Local Government Code as it may be amended to address the subject matter of this division, or any other applicable city, state or federal code or statute.

(d) Criminal. Any person violating any provision of this Division 1 of Article IV shall be guilty of a class C misdemeanor and upon citation and conviction, shall be punished by a fine not less than fifty dollars ($50.00) and not more than one hundred dollars ($100.00) for the first offense; a fine not less than two hundred and fifty dollars ($250.00) and not more than five hundred dollars ($500.00) for the second offense; a fine of not less than one thousand dollars ($1,000.00) and not more than two thousand dollars ($2,000) for the third and additional offenses. Each violation of a particular section of this division shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this division.

(e) Civil. Civil penalties, imposed by courts of competent jurisdiction in civil actions for violations of this division, may also be assessed as may be allowed by applicable state law in any amount to be authorized by the state. Under Chapter 54 of the Texas Local Government Code, SAWS and the office of the city attorney may presently pursue civil enforcement for injunctive relief and the imposition of one thousand dollars ($1,000.00) per day civil penalties appropriately imposed by the Court. This statutory remedy is in addition to the city's common law right to bring civil actions for injunctive relief to stop harmful acts, independent of authority found in the Texas Local Government Code.

(f) If, for any reason, any section, sentence, clause or part of this division is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining sections of this division, but shall be confined to the specific section, sentence, clause, or part of this division held legally invalid.
(Ord. No. 100322, § 1(Att. A), 1-20-05)
Secs. 34-278--34-286. Reserved.

DIVISION 2. WATER WASTE ENFORCEMENT*

***Editor's note:** Ord. No. 92179, § 1, adopted July 27, 2000, amended Div. 2 in it's entirety, in effect repealing and reenacting said division to read as herein setout. The former Div. 2, §§ 34-287-34-300 pertained to wasting water and derived from Ord. No. 17390, §§1-8, adopted March 20, 1952; Ord. No. 17692, § 1, adopted May 29, 1952; Code 1959, §§41-30--41-36; Ord. No. 80574, § 7, adopted Aug. 4, 1994; Ord. No. 83703, § 1, adopted Feb. 29, 1996.

Sec. 34-287. Reserved

Sec. 34-288. Violations.

It shall be a violation punishable by city municipal fine for any ~~person residing or doing business within the corporate limits of the city or~~ San Antonio Water System water and/or waste water service customer, property owner, occupant, resident, or their designee ~~residing or doing business~~ within the city of San Antonio or its extraterritorial

jurisdiction, to intentionally, knowingly, recklessly, or criminally negligently ~~to~~ allow or cause water waste, to allow or cause landscape watering outside the prescribed hours for landscape watering, or to allow or cause any violation of any provision of this Article ~~IV.~~ .
(Ord. No. 92179, § 1, 7-27-00; Ord. No. 2008-10-02-0885, § 3(Exh. A), 10-2-08)

Sec. 34-289. Continued violations.
At locations of repeated or continued violations, the President/CEO of the San Antonio Water System shall have the authority to discontinue the supply of potable water to the registered meter holder.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-290. Enforcement personnel.
The President/CEO or the designee of the San Antonio Water System is hereby authorized to enforce this division in the manner and to the extent allowed by law, including, but not limited to, filing complaints with the city municipal prosecutor's office for such violations, serving notices of violations of this division and filing civil enforcement actions.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-291. Education and enforcement.
As the success of conservation generally, and specifically of this , Article IV , depends largely on public cooperation, SAWS policies shall implement customer education programs and shall establish and maintain a water conservation "hot line," so that the public may provide the San Antonio Water System with information relating to violators.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-292. Defenses to prosecution.
(a) It shall be a defense to prosecution that landscape watering was performed on any plant or seed planted in or transplanted to an area with a valid new landscape variance from SAWS as described in Sec. 34-332.

(b) It shall be a defense to prosecution that landscape watering was performed by a commercial enterprise in the business of growing or maintaining plants for sale, such as plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants and without waste as defined in Sec. 34-271.
(Ord. No. 92179, § 1, 7-27-00; Ord. No. 92503, § 1, 9-14-00)

Sec. 34-293. ~~Registered water meter user or property owner or leaseholder presumed liable.~~ Responsible Party
For purposes of this article, the San Antonio Water System water and/or waste water customer, property owner, occupant, or resident of the property where a violation is observed shall be the responsible party for a violation of the provisions of this Article ~~in any case where water has been used in a manner contrary to any provision of this Article IV , it shall be presumed that the person in whose name a water meter connection is registered with the water purveyor servicing the property or the property owner, or leaseholder,~~ unless an alternate person is designated by the named meter holder and accepts responsibility and it is documented in writing by both the alternate individual and the meter holder. If ~~or~~ there is no meter, ~~in which case~~ the property owner, occupant, or resident shall be the responsible party. ~~has intentionally, knowingly, recklessly, or negligently made, caused, used or permitted to be used, the water in such a contrary manner. Proof that the particular premises had a water meter connection registered in the name of the defendant, or the property owner, or leaseholder cited in a criminal complaint filed pursuant to this division shall constitute a *prima facie* presumption that the defendant is a person who made, caused, used or permitted to be used, water in a manner contrary to any provision of Article IV.~~
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-294. Additional enforcement remedies.

The President/CEO or his or her designee is authorized and instructed to commence any action, in law or in equity, including the filing of criminal charges, deemed necessary for the purpose of enforcing this division. The SAWS President/CEO or the designee may seek civil penalties and any other legal or equitable relief available under common law, Chapter 54 of the Texas Local Government Code or any other applicable city, state or federal code or statute.
(Ord. No. 92179, § 1, 7-27-00; Ord. No. 92503, § 1, 9-14-00)

Sec. 34-295. Penalties.

Criminal. Any person violating any provision of this ~~division or of the Aquifer Management Plan,~~ Article IV, Divisions 1-4, shall be guilty of misdemeanor and upon citation therefore and conviction thereof, shall be punished by a fine not less than fifty dollars ($50.00) and not more than one hundred dollars ($100.00) for the first offense, a fine not less than two hundred and fifty dollars ($250.00) and not more than five hundred dollars ($500.00) for the second offense, and a fine not less than one thousand dollars ($1,000.00) and not more than two thousand dollars ($2,000.00) for the third or any additional offense. Each violation of a particular section of this Article IV, shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this division.

Civil. Civil penalties for violations of this division or of the Aquifer Management Plan, Article IV, Division 4, may also be assessed as allowed by applicable state law in an amount not to exceed one thousand dollars ($1,000.00) per violation. Each violation of a particular section of this division or of the Aquifer Management Plan Article IV, Division 4, shall constitute a separate violation, and each day a violation continues shall be considered a new violation for purposes of enforcing this division.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-296. Nuisance.

The violation of any part of this division shall be a nuisance which may be abated and enjoined by SAWS. Any person creating a public nuisance shall be subject to the provision of the Code governing such nuisances, including reimbursing SAWS for any costs incurred in removing, abating or remedying said nuisance. The owner of any property where said nuisance has occurred shall be liable to the city, acting through and on behalf of SAWS, for the cost of such abatement and shall pay such cost on demand and the city, acting through and on behalf of SAWS, shall have a right to file a lien on the property to secure payment of the cost of such abatement.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-297. Access to premises.

SAWS and all persons or agents employed thereby shall, at all reasonable hours, have free access to premises to ascertain if water is being wasted within the corporate limits of the city or the extraterritorial jurisdiction or the extent of jurisdictional authority and whether provisions of the Water Conservation and Reuse –Article IV have been, and are being, complied with in all respects.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-298. Access to information.

Any water purveyor operating within the corporate limit of the city shall provide enforcement personnel of SAWS, upon request, with the identity, mailing address and telephone number of any person in whose name a water meter is registered or customer account is maintained.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-299. Severability.

If, for any reason, any section, sentence, clause or part of this division is held legally

invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining sections of this division, but shall be confined to the specific section, sentence, clause, or part of this division held legally invalid.
(Ord. No. 92179, § 1, 7-27-00)

Sec. 34-300. This article to prevail if conflict.

In the event any section of this article conflicts in effect or application with any other section of the Code or ordinance, the section(s) of this article shall prevail.
(Ord. No. 92179, § 1, 7-27-00)

DIVISION 3. RESERVED*

***Editor's note:** Ord. No. 92179, § 1, adopted July 27, 2000, repealed Div. 3, §§ 34-301--34-309, which pertained to restrictions on landscape watering, and derived from Ord. No. 80574, § 6, adopted Aug. 4, 1994.

Secs. 34-301--34-315. Reserved.

DIVISION 4. DROUGHT MANAGEMENT PLAN*

***Editor's note:** Ord. No. 2007-02-08-0149, § 1(Exh. A), adopted February 8, 2007, amended division 4 in its entirety to read as herein set out. Formerly, division 4 pertained to the aquifer management plan, and derived from Ord. No. 80574, § 12, adopted August 4, 1994; Ord. No. 82533, § 1, adopted July 20, 1995; Ord. No. 83703, §§ 2--5, adopted February 29, 1996; Ord. No. 83860, §§ 2--7, adopted March 28, 1996; Ord. No. 84082, §§ 1, 2, adopted May 9, 1996; Ord. No. 84286, § 6, adopted July 18, 1996; Ord. No. 85945, § 1, adopted April 24, 1997; Ord. No. 91738, § 1, adopted May 4, 2000; Ord. No. 92179, § 1, adopted July 27, 2000; Ord. No. 92503, § 1, adopted September 14, 2000.

Sec. 34-316. Adoption of a drought management plan, water use reduction measures, and aquifer stage conditions applicable within the corporate limits of the city and its extraterritorial jurisdiction.

The drought management plan, including the water use reduction measures and associated implementation conditions set out therein, is hereby adopted and applicable throughout the corporate limits of the city regardless of water source and its extraterritorial jurisdiction where the San Antonio Water System may provide water and waste water service.
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07; Ord. No. 2008-10-02-0885, § 3(Exh. A), 10-2-08)

***Editor's note:** Ord. No. 2008-10-02-0885, § 3(Exh. A), adopted October 2, 2008, changed the title of § 34-316 from "Adoption of a drought management plan, water use reduction measures, and aquifer stage conditions" to "Adoption of a drought management plan, water use reduction measures, and aquifer stage conditions applicable system-wide, including within the corporate limits of the city and its extraterritorial jurisdiction."

Sec. 34-317. Reserved

Sec. 34-318. Bases of water use reduction measures and aquifer stage conditions.

The water use reduction measures shall be based on the aquifer stage conditions or other condition considerations specified in section 34-319. The aquifer stage conditions shall be based on the Edwards Aquifer water levels in well AY-68-37-203 in the city (also known as "Dodd Field Test Well" or "J-17") as set out in section 34-322, or on aquifer water quality or other aquifer, seasonal or

weather conditions not based on water levels in J-17 (set out in section 34-324).
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-319. Implementation and termination of water use reduction measures and stages, generally.

1. Implementation of water use reduction measures. When the aquifer falls to six hundred sixty- five (665) feet above msl, city and SAWS staff shall begin preparations for public awareness, education and enforcement of the respective stage provisions.

(a) Stage 1. Stage I water use reduction measures shall be declared to be in effect when the aquifer level at J- 17 drops to six hundred sixty (660) feet msl. based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority the SAWS .

(b) Stage II Implementation. Stage II water use reduction measures shall be declared to be in effect when the aquifer level in the index well J-17 falls to six hundred fifty (650) feet above msl based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority.

(c) Stage III Implementation. Stage III water use reduction measures may be implemented when well J-17 falls to six hundred forty (640) feet above msl. based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority. Alternatively, Stage III may be implemented before or after the J-17 levels described above based on the following conditions set forth in Subsection 2.

(d) Stage IV Implementation.
After a monitoring period of thirty (30) days once Stage III is declared, and due consideration of all of the conditions described below in Subsection 2, the city manager, or designee, in consultation with SAWS president/CEO or designee, may declare or delay Stage IV . Specific water use reduction measures are set out in section 34-332 and shall cover the categories of regulated uses, applicable stages and corresponding required water use reduction measures.

(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

2. Conditions for the implementation of water use reduction measures.

One or more of the following conditions may trigger the implementation of water use reduction measures by the city manager or designee, in consultation with SAWS president/CEO or designee:

(a) The review of conditions to determine whether SAWS is able to comply with the applicable regulations governing water supply withdrawals based upon consideration of water supplies, pumping trends, seasonal adjustments and current and forecast precipitation.

(b) Consideration of water resource water quality or other seasonal or weather conditions not based on water levels in J-17, or other conditions as determined by the city.

(c) Whenever Edwards aquifer quality measures thirty (30) percent TDS above historical average and above the maximum TDS value for any public supply water well warrant additional measures to protect the aquifer.

(d) City council may determine that other aquifer, water resource, seasonal, or weather conditions not based on water levels in J-17 warrant additional restrictions. The city council may declare the city impose additional restrictions for all water uses including a prohibition of sprinkler irrigation.

3. Termination of mandatory water use reduction measures.

(a). Stage I Termination. When the aquifer level at J-17 rises to six hundred sixty (660) feet msl SAWS shall monitor the consistency and conditions of Edwards aquifer levels for the next fifteen (15) days to determine if termination of water use reductions measures is warranted, unless conditions significantly change to warrant an earlier or later review for stage termination or extension. After this monitoring period, the city manager, or designee, in consultation with SAWS president/CEO, or designee, may declare the measures terminated.

(b). Stage II Termination. When the aquifer level at J-17 rises to six hundred fifty (650) feet msl SAWS shall monitor the consistency and conditions of Edwards aquifer levels for the next fifteen (15) days to determine if termination of water use reductions measures is warranted, unless conditions significantly change to warrant an earlier or later review for stage termination or extension. After this monitoring period, the city manager, or designee, in consultation with SAWS president/CEO, or designee, may declare the measures terminated.

(c) Stage III Termination. When the Edwards aquifer levels remain above six hundred forty (640) msl. for fifteen (15) consecutive days conditions will determine if all restrictions are terminated or extended or if a previous less restrictive stage will apply.

(d) Stage IV Termination. When Stage III is terminated then termination of Stage IV will occur at the end of the current billing cycle in which the termination takes place.

Sec. 34-320. Declaration and termination of water use reduction measures; notice by publication required.

(a) The city manager, in consultation with SAWS, is hereby authorized to declare that each "trigger level" or other condition has been reached as described in section 34-319 and that the water use reduction measures and each respective stage are in effect.

(b) Notices of the implementation and termination of the water use reduction measures and each of the various stages, as appropriate, shall be publicly announced and published in a daily newspaper for a minimum of one (1) day. The implementation or termination of the measures and each of the stages shall become effective immediately upon publication of the respective notice.

(c) Notice of the termination of the water use reduction measures and each of its various stages s, as appropriate, shall be publicly announced and published in a daily newspaper for a minimum of one (1) day. Termination of the measures and each of its stages shall become

effective immediately upon publication of the respective notice.

(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-321.

Sec. 34-322. Reserved. (Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-323. Designated landscape irrigation times and days.
During any period when stage restrictions have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than golf courses and athletic fields, the restrictions for which are set out in section 34-332) may occur only on certain designated days and at certain times, as follows:

1. Stage I, II, III, IV landscape irrigation days. For Stage I, II, III, and IV the landscape irrigation days for residential and commercial properties will be according to the street address and according to the following schedule. If the last digit of the street address ends in:

0 or 1 the irrigation day is Monday,
2 or 3 the irrigation day is Tuesday,
4 or 5 the irrigation day is Wednesday,
6 or 7 the irrigation day is Thursday,
8 or 9 the irrigation day is Friday.

If there is no street address associated with the property such as a parkway or if there is more than one (1) street address associated with a single contiguous property the irrigation day is Wednesday.

2. Stage I landscape irrigation times and methods. For Stage I the following times and associated irrigation methods apply: Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (1) between the hours of 12:00 a.m. to 11~~0~~:00 a.m. and ~~8~~7:00 p.m. to midnight. Landscape irrigation with a, handheld hose, drip irrigation system or five-gallon bucket is allowed at any time on any day.

3. Stage II landscape irrigation times and methods. For Stage II the following times and associated irrigation methods apply: Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (1) between the hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to11:00 p.m. Landscape irrigation with a drip irrigation system or five-gallon bucket is allowed during Stage II hours on any day. Landscape irrigation with a handheld hose is allowed at any time on any day.

4. Stage III landscape irrigation times and methods. For Stage III, the following times and associated irrigation methods apply: Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (1) every other week beginning on the second Monday after Stage III has been declared, between the hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. Landscape irrigation with a drip irrigation system or five-gallon bucket is allowed on every Monday,

Wednesday and Friday during Stage III hours. Landscape irrigation with a handheld hose is allowed at any time on any day.

5. Stage IV landscape irrigation and methods. For Stage IV, Stage III landscape irrigation restrictions remain in effect. In addition, a drought surcharge is assessed on all water accounts of SAWS, in accordance with section 34-128. Additional restrictions on water use may be established at the discretion of the city council.
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-324. Reserved.

(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Secs. 34-325--34-331. Reserved.

Sec. 34-332. Specific water use reduction measures.

Specific water use reduction measures, their corresponding stages and scope are set out in table A Stage I, table B Stage II, table C Stage III Stage IV, below

Table A--Stage I Restrictions

TABLE INSET:

Stage	*Measures For*	*Scope of Restrictions*
I	Essential Services	Fire-fighting and medical uses-no restrictions. Reductions in fire hydrant and sewer line flushing encouraged.
I	Water Utility Use	Water utilities are encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.
I	Power Production	Water used for power production shall be voluntarily reduced.
I	Military	Compliance with mandatory reduction measures for those uses in the outdoor, essential and utility categories.
I	Agriculture	The escape of irrigation tailwater, as that term is commonly used in the agricultural community, is prohibited. Water loss through percolation in transmission canals is prohibited.
I	Live Stock Use	Reduction of water use by any means available is encouraged.
I	Industrial, Commercial, and Other	A. Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures is required for those uses in the outdoor category, including landscape watering, swimming pools, hot tubs and similar facilities, golf courses, aesthetic uses such as water features; such restrictions specifically include industrial users, as well as all others.

		B. Use of gray water, treated wastewater or reuse water, cooling tower blow down, condensate water is a defense to prosecution. Alternate on-site reclaimed sources may be approved through variance on a case by case basis. C. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down will be used, signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
I	Hotels, Motels, Bed and Breakfasts	Hotels, motels, and B&B's encouraged to voluntarily offer the option of a "no linen/towel change" program.
I	Households	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures shall be achieved for those uses in the outdoor category, such as landscape watering, swimming pools, hot tubs, pressure washing and similar facilities.
I	Swimming Pools, Hot Tubs	A. All swimming pools other than public swimming pools must be covered with an effective evaporation cover or screen or evaporation shields covering at least twenty-five (25) percent of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen, or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed. B. Auto fill feature turned off.
I	Water Features	A. **Residential**: All residential water features are allowed without prohibition. B. **Non-Residential**: SAWS Conservation department may verify the condition of a water feature to determine if it is in good working order. 1) All indoor water features in good working order allowed without prohibition. 2) All water features that meet the definition of Wildlife Habitat water features Sec. 34-271 in good working order allowed without prohibition with Basic variance approved by SAWS Conservation. 3) All outdoor water features that have a water surface area of less than 1000 square feet prior to Stage I declarations and in good working order with an approved Basic variance from

		SAWS Conservation are allowed without prohibition. 4) All water features confirmed by SAWS to be using one hundred (100) percent treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down or other on-site reclaim water and in good working order with a Basic variance approved by SAWS Conservation are allowed without prohibition. Signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it. 5) All outdoor water features that do not meet the conditions described in B 1-4 above must have a Basic variance and outdoor water feature conservation plan approved by SAWS Conservation that includes limiting hours of operation to a maximum of 8 hours of 24 hour period before they are allowed to operate in Stage I or Stage II. 6) Outdoor water features that do not meet the conditions described in B 1-4 and would like to be considered for expanded operated hours from 8 hours in a 24 hour period to 12 hours of operation in a 24 hour period during Stage I and II may apply for an Advanced variance to the SAWS Conservation department prior to implementation of the extended hours.
I	Pressure or Power Washing	Residential: Residential property owners may personally pressure wash their property without a variance for health and safety or in preparation of maintenance such as for house painting if they perform the work themselves. Water is never allowed to run into the street or otherwise off the property. Non- Residential: Pressure washing of non-residential property allowed for health and safety by a properly registered employee or a pressure washing company (sec. 34-272). A variance from the SAWS Conservation department is required prior to work and all conditions of the variance must be followed.
I	Vehicle and Equipment Washing	A. Citizens are encouraged to wash their vehicles no more than twice a month. B. Residential: washing of vehicles and mobile equipment (e.g., washing vehicle at a residence) is permitted only on Saturday or Sunday with a pressure washer, hand-held hose equipped with an automatic shut-off nozzle, or bucket of five (5) gallons or less, without waste. C. Fleet managers are encouraged to only wash those vehicles as is necessary for health and safety. D. Use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down is a defense to prosecution and may be use for vehicle washing any day. Alternate on-site reclaimed sources may be

		approved through variance for the SAWS Conservation Department on a case by case basis.
I	Landscape Irrigation for Existing Plants	A. Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days (subsection 34-323(1)). For Stage I the following times and associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection 34-323(1) between the hours of 12:00 a.m. to 11~~0~~:00 a.m. and ~~8~~7:00 p.m. to midnight. Landscape irrigation with a soaker hose, handheld hose, drip irrigation system or five (5) gallon bucket is allowed at any time on any day. B. A user may file with SAWS a request for an exception to the designated days and times. The request must include: (1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; (2) a water conservation plan demonstrating a significant overall reduction of water use, and (3) evidence of having filed with SAWS the annual irrigation check up required for properties that are five (5) acres or more and have in-ground irrigation (section 34-273.2). The water conservation plan must also include proof of irrigation efficiency of sixty (60) percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage I, II, III, and IV. SAWS may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception. C. The one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down is a defense to prosecution and may be used to irrigate any day without waste, that include allowing water to run down the street, parking lot, or adjacent property. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. D. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down will be used during additional days allowed in subsections 34-323(1)--(7) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
I	Landscape	A. Installation of new landscapes is permitted with a variance

	Irrigation for New Landscapes	which shall only be granted if all applicable provisions including section 34-273, 34-274.2 and section 34-275 are verified by SAWS, including zonal irrigation systems if a permanent irrigation system is installed, a minimum of four (4) inches of soil under turf, model home with xeriscape and xeriscape option offered by builder on file with SAWS Conservation Department. B. Landscape watering permitted to maintain adequate growth until established on newly installed landscapes, generally five (5) weeks. Property owners should submit electronically on-line at www.saws.org to the SAWS Conservation Department their name, address where the new landscape is to be installed and the date of installation in order to receive a confirmation electronic email from SAWS. A copy of the confirmation must be posted at a place visible from the street at the property the variance was received at. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on the day and times associated with the current stage in effect at the termination of the variance. C. The one hundred (100) percent use of gray water, treated wastewater or reuse water, condensate water, cooling tower blow down may be used to irrigate any day between the hours of ~~8~~7:00 p.m. and 11~~0~~:00 a.m. without waste, that include allowing water to run down the street, parking lot, or adjacent property. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. D. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down will be used during additional days allowed in subsections 34-323(1)-(7) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
I	Golf Courses	Golf Courses shall be required to submit a water conservation plan and shall have on file with SAWS the annual irrigation check Up as described in section 34-273.2 and shall be defined as "conforming" or "non-conforming" and shall reduce water usage under the following terms: A. All landscape out-of--play areas such as may be found around a club house or entryway shall follow general landscape irrigation restrictions (subsections 34-323(1)--(3)). B. All in-play areas may be irrigated with a sprinkler or

		irrigation system between the hours of 12:00 a.m. to 11~~0~~:00 a.m. and ~~8~~7:00 p.m. to midnight. C. Conforming golf courses shall implement a ten (10) percent reduction in the replacement of daily evapotranspiration rate ("ET rate") or soils daily water holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals. D. A non-conforming golf course shall not use more than 1.8 times the base usage. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by SAWS for the purpose of establishing acceptable irrigation run times and days as approved by SAWS. E. The one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down, gray water, treated wastewater or reuse water, condensate water, cooling tower blow down is a defense to prosecution and may be used to irrigate any day without waste. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. F. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down, gray water, treated wastewater or reuse water, condensate water, cooling tower blow will be used during additional days or hours allowed in subsections 34-323(1)--(5) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
I	Public Parks	A. Public park owner/operators shall be required to submit a water conservation plan and have on file with the SAWS Conservation Department an irrigation checkup as required by section 34-273.(2). B. Public parks shall limit irrigation with an irrigation system to those days and times required by subsections 34-323(1)-(3) C. The one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down is a defense to prosecution and may be used to irrigate any day between the house of ~~8~~7:00 pm and 11~~0~~:00 am without waste, that include allowing water to run down the street, parking lot, or adjacent property. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. D. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water,

		condensate, or cooling tower blow down will be used during additional days allowed in subsections 34-323(1)--(3) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
I	Athletic Fields	A. An athletic field shall either irrigate according to a basic plan or an advanced plan. Plans shall be on file and approved by SAWS in advance of use. The advanced plan showing precipitation rates and run times along with a conservation plan shall be submitted and approved by SAWS for the purpose of establishing acceptable irrigation run times and days as approved by SAWS. A basic plan outlines which day of the week (Monday--Friday) which athletic field would be irrigated. B. All landscape out-of--play areas such as may be found around a club house or entryway shall follow general landscape irrigation restrictions (subsections 34-323(1)--(5)).

Table B--Stage II Restrictions

Stage	*Measures For*	*Scope of Restrictions*
II	In General	Stage I restrictions remain the same except as added to or replaced below.
II	Hotels, Motels, Bed and Breakfasts	Hotels, motels and B&B's must offer and clearly notify guests of a "no linen/towel change" program.
II	Swimming Pools, Hot Tubs.	A. Draining permitted only onto pervious surface, or onto pool deck where the water is transmitted directly to a previous surface, only if: 1. Draining excess water from pool due to rain in order to lower water to maintenance level; 2. Repairing, maintaining or replacing pool component that has become hazardous; or 3. Repairing pool leak Refilling of public swimming pool permitted only if pool has been drained for the repairs, maintenance or replacement set out in items 2 or 3 above.
II	Landscape Irrigation for Existing Landscapes	Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days (subsection 34-323(1)). For Stage II the following times and associated irrigation methods apply: Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is

		allowed on the day specified in subsection 34-323(1) between the hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. Landscape irrigation with a drip irrigation system or five-gallon bucket is allowed during Stage II hours on any day. Landscape irrigation with a handheld hose is allowed at any time on any day.
II	Landscape Irrigation for New Landscapes	A. Installation of new landscapes is permitted with a variance which shall only be granted if all applicable provisions including section 34-273, 34-274.2 and section 34-275 are verified by SAWS, including zonal irrigation systems if a permanent irrigation system is installed, a minimum of four (4) inches of soil under turf, model home with xeriscape and xeriscape option offered by builder on file with SAWS Conservation Department. B.. Landscape watering permitted to maintain adequate growth until established on newly installed landscapes, generally five (5) weeks. Property owners should submit electronically on-line at www.saws.org to the SAWS Conservation Department their name, address where the new landscape is to be installed and the date of installation in order to receive a confirmation electronic email from SAWS. A copy of the confirmation must be posted at a place visible from the street at the property the variance was received at. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on the day and times associated with the current Stage in effect at the termination of the variance. C.. The one hundred (100) percent use of gray water, treated wastewater or reuse water, condensate water, cooling tower blow down is a defense to prosecution and may be used to irrigate any day without waste. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. D.. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down will be used during additional days or hours allowed in subsections 34-323(1)--(7) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.
II	Golf Courses	Golf Courses shall be required to submit a water conservation plan and shall have on file with SAWS the annual irrigation checkup as described in section 34-273.2 and shall be defined as "conforming" or "non-conforming" and shall reduce water usage under the following terms: A. All landscape out-of--play areas such as may be found around

		a club house or entryway shall follow general landscape irrigation restrictions (subsections 34-323(1)--(3). B. All in-play areas may be irrigated with a sprinkler or irrigation system between the hours of 12:00 a.m. to 11~~0~~:00 a.m. and ~~8~~7:00 p.m. to midnight. C. Conforming golf courses shall implement a twenty (20) percent reduction in the replacement of daily evapotranspiration rate ("ET rate") or daily soil-holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals. D. A non-conforming golf course shall not use more than 1.6 times the base usage. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by SAWS for the purpose of establishing acceptable irrigation run times and days as approved by SAWS. E. The one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down is a defense to prosecution and may be used to irrigate any day between the hours of ~~8~~7:00 pm and 11~~0~~:00 am and without waste. Alternate on-site reclaimed sources may be approved through variance from the SAWS Conservation Department on a case by case basis. F. If one hundred (100) percent use of treated wastewater (recycled water), reuse water, reclaimed water, gray water, condensate, or cooling tower blow down will be used during additional days allowed in subsections 34-323(1)-(4) signs identifying this property as using recycled or reclaimed water source must be posted on site at a location where the general public can view it.

Table B--Stage III Restrictions

TABLE INSET:

Stage	***Measures For***	***Scope of Restrictions***
III	In General	Stage I, II restrictions remain the same except as added to or replaced below.
III	Industrial, Commercial, and Other	Additional reductions may be imposed by the city council if conditions warrant.
III	Hotels, Motels, Bed and	Hotels, motels, B&B's must limit linen/towel changes to once every three (3) nights or for the entire stay, whichever is

	Breakfasts	shorter, except for health and safety.
III	Vehicle and Equipment Washing	During Stage III any vehicle wash facility that is not certified as a SAWS certified vehicle wash facility will not be able to operate. Upon receiving certification vehicle wash facilities may resume operating hours.
III	Landscape Irrigation for Existing Landscapes	Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days (subsection 34-323(1)). For Stage III the following times and associated irrigation methods apply: Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed the day specified in subsection 34-323(1) every other week beginning on the first Monday after the Stage III has been declared, between the hours of 7:00 a.m.to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. Landscape irrigation with a drip irrigation system or five-gallon bucket is allowed on every Monday, Wednesday and Friday during Stage III hours. Landscape irrigation with a handheld hose is allowed at any time on any day.
III	Landscape Irrigation for New Landscapes	A. Installation of new landscapes is permitted only if less than fifty (50) percent of the available landscape area is planted with turf, all applicable provisions of section 34-273, 34-274.2 and section 34-275, including proper horticultural practices such as the use of mulch and zonal irrigation systems if a permanent irrigation system is installed and a minimum of four (4) inches of soil under turf. In addition, drip systems in mulched beds are required. B. A user may file with SAWS a request to install more than fifty (50) percent turf. The request must include: (1) a statement or plan describing the landscaping plan; and (2) a statement indicating how the landscaping plan will achieve the goals of this chapter. Upon the approval of the alternate landscaping plan as set forth herein, the user may be granted an exception.
III	Water Features	1) Water features that are required to have a basic variance and outdoor water feature conservation plan approved by SAWS Conservation must reduce their hours of operation to a maximum of 4 hours a day in Stage III. 2) Outdoor water features that would like to be considered for expanded operated hours from 4 hours in a 24 hour period to 8 hours of operation in a 24 hour period during Stage III may apply for an Advanced variance to the SAWS Conservation department prior to implementation of the extended hours.

III	Golf Courses	A. A conforming golf courses shall implement a thirty (30) percent reduction (or twenty (20) percent reduction, if the conforming golf course is an ISP participant) in replacement of daily ET rate or soils daily water holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals. B. A non-conforming golf course shall not use more than 1.4 times the base usage. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by SAWS for the purpose of establishing acceptable irrigation run times and days as approved by SAWS.

Table D--Stage IV Restriction

TABLE INSET:

Measures For	***Scope of Restrictions***
In General	The most restrictive requirements of either Stage I, II or III restrictions remain the same except as added to or replaced below.
Commercial Surcharge	A surcharge is assessed on all irrigation accounts and assumed irrigation (section 34-124) of the San Antonio Water System as described in section 34-128. Surcharge is to remain in effect for a minimum of one (1) complete billing month. The surcharge shall remain in effect if Stage IV is still in effect at the beginning of the next billing month.
Residential Surcharge	A surcharge is assessed on all water accounts of the San Antonio Water System as described in section 34-128. Surcharge is to remain in effect for a minimum of one complete billing month. The surcharge shall remain in effect if Stage IV is still in effect at the beginning of the next billing month.
Additional Restrictions	Additional restrictions including but not limited to a ban on lawn watering with irrigation systems or hose end sprinklers may be established at the discretion of the city council.

(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-333. Severability.

If, for any reason, any section, sentence, clause or part of this division is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining sections of this division, but shall be confined to the specific section,

sentence, clause, or part of this division held legally invalid.
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Sec. 34-334. This division to prevail if conflict.
In the event any section of this division conflicts in effect or application with any other section of a City Code or ordinance, the section(s) of this division shall prevail.
(Ord. No. 2007-02-08-0149, § 1(Exh. A), 2-8-07)

Secs. 34-335--34-350. Reserved.

DIVISION 5. RESERVED.