

AN ORDINANCE 80 57 4

AMENDING CHAPTER 34 OF THE CITY CODE BY RENUMBERING EXISTING CODE SECTIONS; BY ADDING DIVISIONS 8 AND 9 TO ARTICLE I; BY ADDING DIVISIONS 2 THRU 5 TO ARTICLE IV; BY ADDING ARTICLE V CONTAINING DIVISIONS 1 THRU 4; BY ADDING ARTICLE VI CONTAINING DIVISIONS 1 THRU 5; BY MAKING SUBSTANTIVE AMENDMENTS TO THE EXISTING RESTRICTIONS ON LANDSCAPE WATERING, TO THE AQUIFER MANAGEMENT PLAN, TO THE LIQUID WASTE TRANSPORTATION AND DISPOSAL REGULATIONS, AND TO THE WELL PERMITTING REGULATIONS; BY ADOPTING NEW SECTIONS WHICH, CREATE THE WATER QUALITY AND ENVIRONMENTAL EDUCATION AND ENFORCEMENT FUND, AUTHORIZE THE SAN ANTONIO WATER SYSTEM TO ENFORCE AND ADMINISTER THE PROVISIONS OF CHAPTER 34, AND WHICH REGULATE PROHIBITED DISCHARGES INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM ("MS4"); PROVIDING FOR COLLECTION OF CIVIL PENALTIES FOR VIOLATION OF CHAPTER 34; DECLARING THE VIOLATION THEREOF TO BE A CRIMINAL MISDEMEANOR AND PROVIDING FOR PUNISHMENT UPON CONVICTION BY A FINE NOT TO EXCEED \$2,000.00; DIRECTING PUBLICATION OF THIS ORDINANCE AFTER PASSAGE; AND DECLARING AN EMERGENCY.

* * * * *

Whereas, pursuant to Ordinance No. 75686, dated April 30, 1992, the San Antonio Water System (SAWS) is the agency charged with the responsibility of providing and administering water, wastewater, and reuse services to the City of San Antonio; and

Whereas, Chapter 34 of the San Antonio City Code, dealing with water and sewers, is in need of a comprehensive reorganization and amendment to eliminate conflicts in local laws codified in the Chapter which have developed since the 1950's, and to update existing regulations and add new provisions to provide a modern and logical format to the codification of the Chapter and assist in its enforcement; and

Whereas, the SAWS staff has performed a comprehensive review of the existing provisions of Chapter 34 of the Code, and have made recommendations for the required amendments and reorganization of said Chapter to the San Antonio Water System Board of Trustees; and

Whereas, the San Antonio Water System Board of Trustees has approved and adopted the recommendations of its staff and in furtherance thereof have passed Resolution No. 94-144, dated July 19, 1994, requesting the Council to consider, pass and approve this ordinance to reorganize, amend, and modify Chapter 34, and adopt new regulations to be contained therein; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Article I of Chapter 34 of the San Antonio City Code is hereby amended by adding Division 8, entitled "Water Quality and Environmental Education and Enforcement Fund". The new Division 8 shall contain new sections 34-8.1 thru 34-8.4 having the titles and containing the language set forth in the document attached hereto as Appendix I, which is hereby adopted and approved as if fully set forth herein.

SECTION 2. Article I of Chapter 34 of the San Antonio City Code is hereby amended by adding Division 9, entitled "Enforcement". The new Division 9 shall contain new sections 34-9.1 thru 34-9.3 having the titles and containing the language set forth in the document attached hereto as Appendix II, which is hereby adopted and approved as if fully set forth herein.

SECTION 3. Article II of Chapter 34 of the San Antonio City Code is hereby amended by changing the title thereof from "Water" to "Water Service and Rates"; Article III of said Chapter is hereby amended by changing the title thereof from "Sewers and Sewage Disposal" to "Sewer Service and Rates"; Article IV of said Chapter is hereby amended by changing the title thereof from "Liquid Waste Transportation and Disposal Regulations" to "Water Conservation and Reuse".

SECTION 4. Chapter 34 of the San Antonio City Code is hereby amended by adding a new Article V entitled "Sewage Transportation, Treatment, and Disposal", and by adding to Article V a new Division 1, entitled "Generally", which shall contain Sections 34-426 thru 34-440, which are hereby reserved for future use.

SECTION 5. Chapter 34 of the San Antonio City Code is hereby amended by adding a new Article VI entitled "Water Quality Control and Pollution Prevention", and by adding to Article VI a new Division 1, entitled "Generally", which shall contain Sections 34-551 thru 34-565, and a new Division 4, entitled "Water Quality Control", which shall contain Sections 34-606 thru 34-700, and which are hereby reserved for future use.

SECTION 6. Article II, Division 1 of Chapter 34 of the San Antonio City Code is hereby amended by repealing Section 34-25 entitled "Restrictions on Landscape Watering", and adding to Article IV a new Division 3 entitled "Restrictions on Landscape Watering". Article IV, Division 3 shall contain new sections 34-301 thru 34-315 having the titles and containing the language set forth in the document attached hereto as Appendix III, which is hereby adopted and approved as if fully set forth herein. Section 34-25 is hereby reserved for future use.

SECTION 7. Article IV of Chapter 34 of the San Antonio City Code is hereby amended by adding a new Division 2, entitled "Wasting Water". Article IV, Division 2 shall contain new Sections 34-287 thru 34-300. Article II, Division 2 is hereby amended by relocating the text of Section 34-48 to new Section 34-287. Section 34-48 is hereby reserved for future use.

SECTION 8. Article VI of Chapter 34 of the San Antonio City Code is hereby amended by adding a new Division 3, entitled "Watercourses". Article VI, Division 3 shall contain new

Sections 34-591 thru 34-605. Article II, Division 3 is hereby amended by deleting the title of said Division and relocating the text of Section 34-86 thru 34-100 to new sections 34-591 thru 34-605, respectively. Sections 34-86 thru 34-100 are hereby reserved for future use.

SECTION 9. Article II, Division 5 of Chapter 34 of the San Antonio City Code is hereby amended by deleting the title of the division and the text of Sections 34-101 thru 34-120, pursuant to Ordinance No. 79702, adopted February 24, 1992, which repealed the same. Sections 34-101 thru 34-120 are hereby reserved for future use.

SECTION 10. Article V of Chapter 34 of the San Antonio City Code is hereby amended by adding a new Division 3, entitled "Industrial Waste and Pre-treatment". Article V, Division 3 shall contain new Sections 34-471 thru 34-510. Article III, Division 2 is hereby amended by deleting the title of said Division and relocating the text of Sections 34-156 thru 34-195 to new Sections 34-471 thru 34-510, respectively. Sections 34-156 thru 34-195 are hereby reserved for future use.

SECTION 11. Article V of Chapter 34 of the San Antonio City Code is hereby amended by adding a new Division 2, entitled "Toilets, Septic Tanks, Privies". Article V, Division 2 shall contain new Sections 34-441 thru 34-470. Article III, Division 3 is hereby amended by deleting the title of said Division and relocating the text of Sections 34-196 thru 34-225 to new Sections 34-441 thru 34-470, respectively. Sections 34-196 thru 34-225 are hereby reserved for future use.

SECTION 12. Chapter 34 of the San Antonio City Code is hereby amended by adding Division 4 entitled "Aquifer Management Plan" to Article IV. Article IV, Division 4 shall contain new sections 34-316 thru 34-350 having the titles and containing the language set forth in the document attached hereto as Appendix IV, which is hereby adopted and approved as if fully set forth herein. Ordinance No. 79702, passed and approved on February 24, 1994, creating an aquifer management plan, is hereby repealed, and the amended and codified version of such plan as set forth in Appendix IV is hereby effective as provided for in Section 18 of this Ordinance.

SECTION 13. Article IV of Chapter 34 of the San Antonio City Code is hereby amended by adding a new Division 5, entitled "Reuse". Article IV, Division 5 shall contain new Sections 34-351 thru 34-425, which are hereby reserved for future use.

SECTION 14. Chapter 34 of the San Antonio City Code is hereby amended by adding Division 4 entitled "Liquid Waste Transportation and Disposal Regulations" to Article V. Article V, Division 4 shall contain new sections 34-511 thru 34-550 having the titles and containing the language set forth in the document attached hereto as Appendix V, which is hereby adopted and approved as if fully set forth herein. The existing text of Sections 34-271 thru 34-283 codified from Ordinance No. 64987, passed and approved on May 7, 1987, which implemented the original regulations for liquid waste transportation and disposal is hereby repealed, and the amended and codified version of the new regulations as set forth in Appendix V is hereby effective as provided for in Section 18 of this Ordinance.

SECTION 15. Chapter 34 of the San Antonio City Code is hereby amended by adding Division 2 entitled "Wells" to Article VI. Article VI, Division 2 shall contain new sections 34-566 thru 34-590 having the titles and containing the language set forth in the document attached hereto as Appendix VI, which is hereby adopted and approved as if fully set forth herein. The existing title of Article II, Division 3, entitled "Wells", and the text of Sections 34-61 thru 34-85, which implemented the original regulations for wells, are hereby repealed and deleted, and the amended and codified version of the new regulations as set forth in Appendix VI is hereby effective as provided for in Section 18 of this Ordinance.

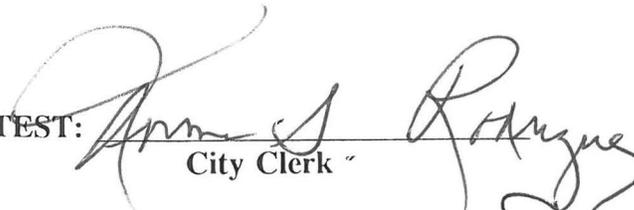
SECTION 16. Chapter 34 of the San Antonio City Code is hereby amended by adding Division 5, entitled "Prohibited Discharges into the Municipal Separate Storm Sewer System" to Article VI. Article VI, Division 5 shall contain new sections 34-701 thru 34-900 having the titles and containing the language set forth in the document attached hereto as Appendix VII, which is hereby adopted and approved as if fully set forth herein. The new regulations set forth in Appendix VII are hereby effective as provided for in Section 18 of this Ordinance.

SECTION 17. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, or any appendix thereof, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 18. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Revised Civil Statutes Annotated as amended Title 5, Chapter 532, Government Code. It is further found that provisions of this ordinance are intended to protect the public health, safety and welfare, and, as such, the provisions of this ordinance shall be effective immediately upon and after its passage.

PASSED AND APPROVED this 4th day of August, 1994.


M A Y O R

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney

EMERGENCY
8 VOTES NEEDED

Amended

3PM-
 ATTENDING CHAP. 4
 OF CITY CODE
 "WATER & SEWERS"

ITEM NO. 4

DATE: AUG 04 1994

MEETING OF THE CITY COUNCIL

DATE: AUG 04 1994

MOTION BY: Adler

SECONDED BY: Pest

ORD. NO. 80574

ZONING CASE _____

RESOL. _____ PETITION _____

- ARTS & CULTURAL AFFAIRS
- AVIATION
- BUILDING INSPECTIONS
- BUILDING INSPECTIONS-HOUSE NUMBERING
- CITY ATTORNEY
- MUNICIPAL COURT
- REAL ESTATE (FASSNIDGE)
- REAL ESTATE (WOOD)
- REAL ESTATE (HUBBARD)
- TRIAL SECTION
- CITY MANAGER
- TRAVIS BISHOP, ASST. TO CITY MGR.
- CODE COMPLIANCE
- INTERGOVERNMENTAL RELATIONS
- INTERNATIONAL RELATIONS
- YOUTH INITIATIVES
- CITY PUBLIC SERVICE-GENERAL MANAGER
- CITY PUBLIC SERVICE-MAPS & RECORDS
- COMMERCIAL RECORDER (PUBLISH)
- COMMUNITY INITIATIVES
- CONVENTION & VISITORS BUREAU
- CONVENTION FACILITIES
- DOME DEVELOPMENT OFFICE
- ECONOMIC DEVELOPMENT
- FINANCE DIRECTOR
- ASSESSOR
- CONTROLLER
- GRANTS
- RISK MANAGEMENT
- TREASURY
- FIRE DEPARTMENT
- HOUSING & COMMUNITY DEVELOPMENT
- INFORMATION SERVICES
- INTERNAL REVIEW
- LIBRARY
- MANAGEMENT SERVICES (BUDGET)
- MANAGEMENT SERVICES (PERSONNEL)
- MARKET SQUARE
- METROPOLITAN HEALTH DISTRICT
- MUNICIPAL COURTS
- PARKS & RECREATION
- PLANNING
- DISABILITY ACCESS OFFICE
- LAND DEVELOPMENT SERVICES
- POLICE DEPARTMENT
- POLICE DEPARTMENT-GROUND TRANSPORTATION
- PUBLIC INFORMATION OFFICE
- PUBLIC UTILITIES
- PUBLIC WORKS
- CAPITAL PROJECTS
- CENTRAL MAPPING
- ENGINEERING
- PARKING DIVISION
- REAL ESTATE (BILL TOUDOUZE)
- SOLID WASTE
- TRAFFIC ENGINEERING
- PURCHASING & GENERAL SERVICES
- SAN ANTONIO WATER SYSTEM (SAWS)
- SUBIE A. (FILE)
- MUNICIPAL CODE CORPORATION (PUBLISH)

	ROLLCALL	AYE	NAY
ROGER PEREZ DISTRICT 1		✓	
RUTH MC-CLENDON DISTRICT 2		✓	
LYNDA BILLA BURKE DISTRICT 3		✓	
HENRY AVILA DISTRICT 4		ABSENT	
JUAN F. SOLIS III DISTRICT 5		✓	
HELEN AYALA DISTRICT 6		absent	
BOB ROSS DISTRICT 7		✓	
BILL THORNTON DISTRICT 8		✓	
HOWARD PEAK DISTRICT 9		✓	
LYLE LARSON DISTRICT 10		✓	
NELSON WOLFF MAYOR		✓	

AMENDS CHAP. NO. 34 OF CITY CODE!

PUBLISH!
 Done

94-37 FILE "CHAP. 34"

Done!

APPENDIX I

Division 8. Water Quality and Environmental Education and Enforcement Account

Section 34-8.1 Establishment of Account

SAWS is hereby directed to establish an Account to be entitled the Water Quality and Environmental Education and Enforcement Account (hereinafter "the Account"). The establishment of the Account shall in no way conflict with the terms and conditions set out in Ordinance 75686 of April 30, 1992.

Section 34-8.2 Funding Source

Certain Divisions of Chapter 34, specifically Article V, Division 2, Industrial Waste and Pre-treatment, and Division 3, Liquid Waste Transportation and Disposal Regulations, and Article VI, Division 2, Wells, and Division 4, Prohibited Discharges Into the Municipal Separate Storm Sewer System, include sections imposing civil penalties in addition to criminal penalties. Civil penalties collected by the actions of SAWS and its attorneys pursuant to such sections shall be recorded in the Account created pursuant to Section 34-8.1 herein, unless expressly prohibited by law. Should any such civil penalties collected fail to be recorded in the Account, the SAWS personnel and attorneys responsible for the imposition and collection of such civil penalty shall be required to justify in writing to the President/CEO why such funds were not so recorded and shall state the disposition of same.

Section 34-8.3 Use of Funds

The funds collected from civil penalties in the Account shall be utilized solely to educate the public in the areas of water quality and pollution prevention and to enhance the enforcement of the Chapter divisions for which such civil penalties were imposed. Such enhanced enforcement may include increased enforcement personnel as needed, the acquisition of additional material and equipment, and other activities directly related to the enforcement of the divisions for which civil penalties are imposed. A minimum of 25% of the funds deposited in the Account shall be used for funding activities directed towards the education of school-age children on topics of water quality, conservation, environmental awareness and pollution prevention.

Section 34-8.4 Funds To Be Kept Separate

The funds within the Account shall be recorded and accounted for in a manner that distinguishes them from other SAWS funds and shall be disbursed in a manner which is consistent with the purposes for which this Account has been established.

APPENDIX II

Division 9. Enforcement

Section 34-9.1 Granting of Enforcement Authority to SAWS

- a. The President/CEO of SAWS is hereby granted the authority to designate qualified SAWS personnel to enforce this Chapter in the manner and to the extent allowed by law.
- b. The President/CEO is specifically granted the authority to designate qualified SAWS personnel to file notices of violations of this Chapter and to take all necessary actions to file complaints with the Municipal Prosecutor's Office for violations of this Chapter.

Section 34-9.2 Granting of Authority to Pursue Legal Remedies

The SAWS Legal Department is hereby granted the authority to seek legal and/or equitable remedies including the filing of criminal charges for violations of this Chapter. The SAWS Legal Department shall, for purposes of this Chapter, represent the City of San Antonio, by and through the San Antonio Water System.

Section 34-9.3 Authority of City Attorney to Enforce Chapter

The granting of the authority set out in Section 34-9.2 herein shall in no way diminish the authority and responsibility of the City Attorney to enforce Chapter 34 and diligently prosecute violations of this Chapter through the Municipal Prosecutor's Office.

APPENDIX III

Section 34-301. Prohibited Landscape Watering Methods.

It shall be a violation of this Division for any owner or occupant, or for any person, individual, corporation, or partnership in apparent control of any property in the City of San Antonio, intentionally, knowingly, recklessly, or criminally negligently to perform landscape watering or to allow or cause landscape watering on said property on any day between the hours of 10:00 a.m. and 8:00 p.m., or at any other time set out in Article IV, Division 4, Aquifer Management Plan, when additional restrictions on landscape irrigation may be in effect, by using individual sprinklers or sprinkler systems.

Section 34-302. Definitions.

For the purposes of this Division the following words and phrases shall have the meaning given in this Section:

Individual sprinklers or sprinkler systems - any method or device used for the application of water on said property other than the methods and/or devices set out in Section 34-304.

Landscape watering - the application of water to any member of the plant kingdom, including any tree shrub, vine, herb, flower, succulent, groundcover or grass species, that is growing or has been planted out of doors.

Section 34-303. Presumption.

For purposes of this section, it shall be presumed that any person, individual, corporation, or partnership in whose name a water meter connection is registered with the water purveyor servicing the property, has knowingly made, caused, used or permitted to be used or permitted to be used the water in a manner contrary to any provision of this section. Proof that the particular premises has a water meter connection registered in the name of the defendant named in the criminal complaint filed pursuant to this section shall constitute in evidence a prima facie presumption that the person in whom such water connection is registered is a person who permitted or caused illegal landscape watering to occur on the premises.

Section 34-304. Permitted Landscape Watering Methods.

The following methods of landscape watering are permitted at anytime:

- a. Landscape watering with a hand held hose with a manual or automatic shut-off nozzle operated by one person;
- b. Landscape watering with a bucket having a holding capacity of five (5) gallons or less; and
- c. Landscape watering with a drip irrigation system. For purposes of this section, "drip irrigation" shall mean an automatic water-saving irrigation system (drip, porous pipe,

etc.)

34-305. 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 within such period of time as to accomplish a reasonable establishment and maintenance of growth.
- b. It shall be a defense to prosecution that landscape watering was performed by those commercial enterprises 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.

34-306. Penalty Provision.

- a. A criminal penalty is hereby established whereby any person who is duly convicted of a violation of any provision of this Division shall be deemed to be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding \$200.00.
- b. The President/CEO of the San Antonio Water System is hereby authorized to designate qualified San Antonio Water System personnel to serve notices of violations of this section and take all necessary actions to file a complaint with the Municipal Prosecutor's Office.

34-307. Additional Enforcement Remedies.

In addition to any other remedies provided by this division, the City of San Antonio and SAWS may, at any time, seek legal and/or equitable remedies or file charges against any person, corporation or other entity believed to be in violation of this division. In furtherance thereof, the SAWS Legal Department 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.

34-308. Severability.

If any provision of this division or the application thereof to any person or circumstance shall be held to be void or invalid for any reason, the remainder of this division and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this division would have been enacted without such invalid provision.

34-309. Conflict.

No provision of this section is intended to, nor shall any part or portion hereof, be construed in such a manner as to conflict with the Texas Water Code.

Sections 34-310 through 34-315. Reserved.

APPENDIX IV

Section 34-316. Adoption of Aquifer Management Plan, Water Use Reduction Measures, and Aquifer Stage Conditions.

The Aquifer Management Plan, including the Water Use Reduction Measures and associated Aquifer Stage Conditions set out therein, is hereby adopted.

Section 34-317. Definitions.

Aesthetic use - the use of water for fountains, waterfalls, and landscape lakes and ponds where such use is entirely ornamental and serves no other functional purpose.

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

Bucket - bucket or other container holding five gallons or less, used singly by one person.

Drip irrigation - an automatic water-saving irrigation system (drip, porous pipe, etc.).

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

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

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

Household use - 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 area - any structure or any street, driveway, sidewalk, patio or other surface area covered with brick, paving, tile or other impervious material.

Industrial, commercial and other use - the use of water integral to the production of primary goods and services provided by industrial or commercial facilities and water essential to service-related industries such as recreation and tourism. Industrial facilities include facilities which perform such process-specific activities as cooling, boiler feed, cleaning and washing, pollution control, extraction and separation of desirable material from products and waste materials and the incorporation of water into final products. Commercial facilities include, but are not limited to, food service facilities, hotels, retail facilities and nursery operations.

Landscape watering - the application of water to grow landscaping plants.

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

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

msl - elevation above mean sea level.

New landscaping plant - 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.

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

Park - a tract of land maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Pervious surface - any ground surface which can absorb water or other liquids.

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

Public - municipally-owned or operated facilities.

TDS - Total Dissolved Solids.

Vegetable garden - 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.

Water utility use - water used for withdrawal, treatment, transmission and distribution by potable water system.

Waste - includes, but is not limited to, allowing water to run off into a gutter, ditch or drain, or failing to repair a controllable leak.

Section 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. The Aquifer Stage Conditions shall be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17"; hereinafter "J-17"), except for Stage IV, which shall be based on aquifer water quality (set out in Section 34-324).

Section 34-319. Implementation of Water Use Reduction Measures and Stages, generally.

The Water Use Reduction Measures shall be declared to be in effect when the aquifer level at J-17 falls to 655 feet msl. Each stage of the Water Use Reduction Measures shall be automatically implemented when the aquifer water in J-17 reaches the "trigger levels" set out in Sections 34-322 through 34-324. Specific water use reduction measures are set out in Table 1 of this Division and shall cover the categories of regulated uses, applicable stages and corresponding required water use reduction measures.

Section 34-320. Declaration of Water Use Reduction Measures, Stages in Effect; Notice by Publication Required.

- a. The City Manager, in consultation with SAWS, is hereby authorized to declare that each "trigger level" has been reached 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 day. The implementation or termination of the Measures and each of its stages shall become effective immediately upon publication of the respective notice.

Section 34-321. Water Advisory Council to be organized.

When the Water Use Reduction Measures are declared to be in effect, a Water Advisory Council, composed of water purveyors and other interested jurisdictions, shall be organized. This group shall provide a forum for information exchange and cooperation to ensure that the Aquifer Management Plan is understood and equitably implemented.

Section 34-322. "Trigger Levels" for Preparation for and Implementation and Termination of Water Use Reduction Measures, Stages I through III.

Preparation for and implementation and termination of Stages I through III of the Water Use Reduction Measures shall occur according to the following schedule:

	Description	Stage I Aquifer Awareness	Stage II Aquifer Watch	Stage III Aquifer Warning
1	When the aquifer falls to this level msl, City and SAWS staff shall begin preparations for public awareness, education and enforcement of the respective stage provisions, as set out in Section 34-332, below.	660	650	625
2	When the aquifer falls to this level msl, the City Manager, in consultation with SAWS, shall declare the City to be officially in the respective stage. SAWS shall coordinate water use reduction with other municipalities and customers in its service area. The City and SAWS shall enforce the water use reduction provisions set out in Section 34-332, below, for each stage.	655	640	620
3	When the aquifer subsequently rises to this level msl, City and SAWS staff shall monitor consistency of aquifer levels for the next five to ten days, considering pumpage trends, seasonal adjustments, and current and forecast precipitation, before deciding whether to terminate the respective stage.	660	650	625

Section 34-323. Designated Landscape Irrigation Times and Days (Stages II and III).

During any period when Stages II and III have been declared to be in effect, irrigation of existing landscape on any property may occur only on certain designated days and at certain times, and, for properties zoned "residential", in accordance with the last digit of the property address, as follows:

a. Properties zoned "residential":

<u>Last Digit of Address</u>	<u>Days and Times Permitted Stage II</u>	<u>Days and Times Permitted Stage III</u>
ODD	Sundays, 8:00pm - Mondays, 10:00am Thursdays, 8:00pm - Fridays, 10:00am	Sundays, 8:00pm - midnight; and Mondays, 5:00am - 10:00am; Thursdays, 8:00pm - midnight, and Fridays, 5:00am - 10:00am
EVEN	Saturdays, 8:00pm - Sundays, 10:00am Tuesdays, 8:00pm - Wednesdays, 10:00am	Saturdays, 8:00pm - midnight, and Sundays, 5:00am - 10:00am; Tuesdays, 8:00pm - midnight, and Wednesdays, 5:00am - 10:00am

b. Properties zoned other than "residential" (without regard to address):

<u>Days and Times Permitted</u> <u>Stage II</u>	<u>Days and Times Permitted</u> <u>Stage III</u>
Mondays, 8:00pm - Tuesdays, 10:00am	Mondays, 8:00pm - midnight; and Tuesdays, 5:00am - 10:00am;
Fridays, 8:00pm - Saturdays, 10:00am	Fridays, 8:00pm - midnight, and Saturdays, 5:00am - 10:00am

Section 34-324. Implementation of Water Use Reduction Measures, Stage IV ("Aquifer Risk").

Implementation of Stage IV, "Aquifer Risk", shall be based on consideration of aquifer water quality. Whenever aquifer water quality measures 30% TDS above historical average and above the maximum TDS value for any public water supply well, the City Manager, in consultation with SAWS, shall declare the City to be officially in Stage IV. It is not required that the aquifer level in Well AY-68-37-203 (Dodd Field Test Well J-17) measure less than 620 feet msl for Stage IV to be declared. Appropriate additional measures to protect the aquifer shall be implemented as necessary.

Section 34-325. Termination of Water Use Reduction Measures, Stages.

When the aquifer level at J-17 rises to 660 feet msl during a period when the Water Use Reduction Measures have been declared in effect, the City Manager, or his designee, in consultation with SAWS, shall monitor consistency of aquifer levels for the next five to ten days to determine if conditions warrant termination of the Measures, and such determination shall include consideration of pumpage trends, seasonal adjustments, and current and forecast precipitation. After this monitoring period and due consideration of all of the above-described conditions, the City Manager, in consultation with SAWS, may declare the Measures terminated.

Notice of the termination of the Water Use Reduction Measures and each of its various stages, as appropriate, shall be publicly announced and published in a daily newspaper for a minimum of one day. Termination of the Measures and each of its stages shall become effective immediately upon publication of the respective notice.

Section 34-326. Violation.

It shall be a violation of this Division for any person, individual owner, occupant, or corporation or partnership intentionally, knowingly, recklessly, or negligently to use water or to allow or cause the use of water in violation of any of the provisions of this Division within the corporate limits of the City of San Antonio.

Section 34-327. Registered Water Meter User Presumed Liable.

For purposes of this Division, in any case where water has been used in a manner contrary to any provision of this Division, it shall be presumed that the person, individual, corporation, or

partnership in whose name a water meter connection is registered with the water purveyor servicing the property, has knowingly 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 cited in a criminal complaint filed pursuant to this Division shall constitute in evidence a *prima facie* presumption that the defendant is a person who permitted or caused the use of water in a manner contrary to any provision of this Division.

Section 34-328. Penalty for Violation.

Any person, individual, corporation or partnership who is convicted of a violation of any provision of this Division in a criminal court shall be deemed, upon conviction, to be guilty of a misdemeanor and shall be punished by a fine not to exceed \$200.00 per violation. Civil penalties for violations of this Division may also be assessed as allowed by applicable state law.

Section 34-329. Enforcement.

As enforcement of the Water Use Reduction Measures depends largely on public cooperation, City and SAWS enforcement policies shall provide for extensive use of a water conservation "hot line", so that the public may provide the City and SAWS with information relating to violators. The President/CEO of SAWS is hereby granted the authority to designate qualified SAWS personnel to enforce this Division in the manner and to the extent allowed by law, including the filing of notices of violations of this Division and to take all necessary actions to file complaints with the Municipal Prosecutor's Office for such violations.

Section 34-330. 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.

Section 34-331. Separability.

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.

Section 34-332. Specific Water Use Reduction Measures.

Specific Water Use Reduction Measures, their corresponding stages and scope are set out in the table, below:

<u>Measures</u>	<u>Stages</u>	<u>Scope of Restrictions</u>
Essential Services	I, II, III	Fire-fighting & medical uses -- no restrictions.
	I	Reduction in fire hydrant & sewer line flushing recommended.
	II, III	Hydrant flushing & sewer line flushing -- only on emergency basis.
Water Utility Use	I, II, III	Reduction of system pressure to 60 pounds per square inch at point of service is recommended. Upon reduction of pressure, fire-fighting services

shall be notified and arrangements made for additional pressure when required. User is encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.

Power Production	I, II, III	Water used for power production shall be voluntarily reduced.
Military	I, II, III	Compliance with mandatory reduction measures for those uses in the outdoor, essential and utility categories.
Agricultural	I	Reduction of water use by any means available is encouraged.
	II, III	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.
	III	Additional reduction may be imposed by the City Council if conditions warrant.
Livestock Use	I, II, III	Reduction of water use by any means available is encouraged.
Industrial, Commercial, and Other	I, II, III	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 fountains; such restrictions specifically include industrial users, as well as all others.
	IV	Additional reductions may be imposed by the City Council if conditions warrant.
Restaurants	II, III	Prohibited from serving water to non-employees except when requested by the non-employee.
Household	I, II, III	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, and similar facilities.
	II	Filling permitted for new and existing private facilities. Draining permitted only onto pervious surface.
Swimming Pool, Hot Tub, etc.	III	Filling and replenishing for new and existing public & private facilities is prohibited.
	II, III	Outside and inside prohibited. The use of reused or recycled water is a defense to prosecution under this paragraph.
Other Outdoor Uses	I, II, III	Waste is prohibited.
	II	Washing of any impervious surface area is prohibited. The washing of any impervious surfaces for immediate health and safety shall be a defense to prosecution for this paragraph. Washing of mobile equipment limited to

assigned residential landscape designated watering days between the hours of 8:00 p.m. through 10 a.m. with hand-held hose (with automatic shut-off nozzle) or bucket. Use of commercial vehicle wash facility permitted any day.

- III Washing of impervious surface areas is prohibited except washing for immediate human health and safety concerns. Vehicle washing is permitted ONLY for health and safety reasons over a pervious surface area during designated watering day and time, with hand-held hose (with automatic shutoff nozzle) or bucket. Water use by commercial vehicle washing facilities is prohibited.
- Vegetable Garden I Landscape watering using individual sprinkler or sprinkler for vegetable garden is between the hours of 8:00 p.m. and 10:00 a.m. Watering with hand-held hose, bucket, or drip irrigation system is permitted at any time.
- Landscape Irrigation: I Landscape watering using individual sprinkler or sprinkler systems for Established Plants is permitted only between the hours of 8:00 p.m. and 10:00 a.m. Watering with hand-held hose, bucket, or drip irrigation is permitted at any time.
- II Landscape watering using individual sprinkler or sprinkler systems is prohibited except on designated watering days for "residential" landscape, between the hours of 8:00 p.m. and 10:00 a.m. Landscape watering is permitted at anytime with Hand-held hose, bucket, or drip irrigation system. The use of treated wastewater or reuse water is a defense to prosecution.
- III Landscape watering is permitted only with Hand-held hose, bucket or drip irrigation system on designated days between the hours of 5:00 a.m. through 10:00 a.m. and 8:00 p.m. through midnight. The use of treated wastewater or reuse water is a defense to prosecution.
- Landscape Irrigation: I Landscape watering permitted to maintain adequate growth until New Landscaping Plant established. Thereafter, landscape watering using individual sprinkler or sprinkler systems for landscaping plants is permitted only between the hours of 8:00 p.m. and 10:00 a.m. Watering with hand-held hose, bucket, or drip irrigation system is permitted at any time.
- II Landscape watering permitted to maintain adequate growth until established. Thereafter, landscape watering using individual sprinkler or sprinkler systems is prohibited except on residential landscape watering days, and only between the hours of 8:00 p.m. and 10:00 am. Landscape watering is permitted at anytime with Hand-held hose, bucket of 5 gallons or less, or drip irrigation system. Use of treated wastewater or reused water is a defense to prosecution.
- III Installation of new landscape plants is prohibited.
- Golf Course I Reduction of irrigation between the hours of 8:00 p.m. and 10:00 a.m. (as defined by City Code)
- II Reduction of irrigation between the hours of 8:00 p.m. and 10:00 a.m. Maximum allowable irrigation times are:

Greens - Three hours per week (hand water and sprinklers).

Tees - Two hours per week.

Fairways (landing zones only) - One and a half hours per week.

Fairways (non-landing zones) - One hour per week.

Roughs - Prohibited; no watering allowed.

- III For tees and greens watering is permitted with Hand-held hose between the hours of 5:00 a.m. through 10:00 a.m. and 8:00 p.m. through midnight. The use of treated wastewater or reused water is a defense to prosecution.
- Recreational areas II **Low use park areas** may be irrigated once every five (5) days between the hours of 8:00 p.m. and 10:00 a.m., not to exceed 2 hours per week.
- High use park areas, sports fields, softball diamonds, etc.,** may be irrigated once every five days between the hours of 8:00 p.m. and 10:00 a.m.
- New installation of turf --** irrigation permitted to maintain adequate growth until established.
- III **Public playing fields --** watering permitted with hand-held hose between the hours of 5:00 am. through 10:00 a.m. and 8:00 pm. through midnight. The use of treated wastewater is a defense to prosecution.

APPENDIX V

SECTION 34-511. DEFINITIONS

For the purpose of this division, the following words and phrases shall have the meanings respectively described to them by this section unless the context requires otherwise.

CEO - The Chief Executive Officer of the San Antonio Water System

City - The City of San Antonio, Texas as represented by the official acts of the City Council and Council designated representatives.

Department - The San Antonio Water System, Quality Control Department

Director - The Director of the Department of Quality Control or his or her designated representative or agent

Discharge - The unpermitted disposal, deposit, injection, dumping, spilling, leaking or placing of any liquid waste including but not limited to solid or semi-solid grease trap waste, grit trap waste, and/or septic tank waste into or on any land, water, sanitary or storm sewer facilities so as to cause such waste or any constituent thereof to adversely enter the environment, or be adversely emitted into the air or into any water including ground waters.

Disposal Site (Land Application) - A permitted or registered facility or part of a permitted or registered facility at which liquid waste, including but not limited to grease trap waste and grit trap waste, is received, processed, treated, and/or intentionally placed into or on any land where it is intended that said waste shall remain after closure of said facility.

Disposal Site - A permitted facility or part of a permitted facility, including collection sewers and sludge handling facilities at which liquid wastes and septage is approved to be collected, transported, treated, and intentionally disposed of by conveyance to receiving waters and/or lands. These types of facilities must be classified as either a Type I (landfill) or Type V (other, i.e. liquid processing) Municipal Solid Waste Facility as defined under 40 CFR part 257 and TAC, Part IX, Chapter 330, Subchapter D, Section 330.41 (b) and Section 330.41 (f).

Disposal Site Operator - A person, firm, corporation, municipal corporation, or utility permitted or registered by the appropriate state and/or federal regulatory agencies to engage in receiving, storing, processing and/or ultimately disposing of liquid waste, including but not limited to, grease trap waste, grit trap waste, and septage.

Generator - A person who causes, creates, generates, stores or otherwise produces liquid waste, including but not limited to grease trap waste, grit trap waste and septage as a by-product of some domestic or non-domestic activity.

Grease Trap - A receptacle utilized by commercial or industrial generators of liquid waste to

intercept, collect and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected.

Grease Trap Waste - Any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and ultimately removed from a grease trap for proper disposal.

Grit Trap - A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of petroleum-based oil and grease wastes and inorganic or other solids into both private and public sanitary sewers to which the receptacle is directly or indirectly connected.

Grit Trap Waste - Oil and grease wastes, and inorganic solids generated by commercial, industrial, automotive or heavy machinery repair and/or washing facilities that are collected by and ultimately removed from a grit trap for disposal.

Hazardous Waste - A solid waste, or combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristic may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Industrial Wastewater Advisory Board (IWAB) - An advisory board consisting of 11 members the function of which is to provide information and recommendations to the SAWS Board of Trustees, President/CEO, and the Director regarding Industrial Wastewater and Liquid Waste regulations, pursuant to sections 34-471 through 34-510 of this Chapter.

Liquid Waste - Water-borne solids and liquids containing dissolved or suspended waste materials, including but not limited to, septage and wastes from grease traps and grit traps.

Manifest - The written, multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site as provided for in Section 34-516 of this division.

Manifest System - A record keeping and accounting system consisting of a multi-paged manifest booklet and other forms used to document specific data regarding the point of generation, transportation, volume and disposal of grit trap waste, grease trap waste, and septage.

Manager - The person responsible for conducting, supervising, managing or representing the business activities of a generator or transporter.

Permit - The formal written control document issued by the San Antonio Water System to a transporter which entitles such transporter to collect, transport and dispose of grease trap waste, grit trap waste and septage at a permitted or registered treatment storage, or disposal site or facility, and regulates said activities.

Permittee - A person issued a permit under this division.

Person - An 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, association, firm, company, joint stock company, commission, or any other legal entity.

Regional Agent Boundary - The geographic area within which the San Antonio Water System is the designated responsible governmental agency to construct, operate, and maintain regional sanitary sewerage systems pursuant to the authority of Texas Water Quality Board Order No. 72-0120-11 passed and approved on January 20, 1972, as may be amended.

Sanitary Sewer - A system of pipes, conduit, and treatment facilities owned and/or operated by the San Antonio Water System which collect, transport, and treat sanitary sewage, and to which storm, surface, and ground waters are not intentionally or normally admitted.

SAWS - The City of San Antonio, acting by and through the San Antonio Water System permit, Ordinance #77784.

Septage - Liquid wastes and sludges containing sufficient liquid content, normally more than 85%, to permit flow by gravity or minimal pumping, which is removed from a portable toilet, chemical toilet, septic tank (as used herein), or cesspool. Septage does not include non-domestic wastes from commercial or industrial establishments.

Shall - The word "shall" whenever used in this article, will be interpreted in its mandatory sense; "may" is permissive.

Tank - A receptacle device or structure designed to contain an accumulation of liquid waste including but not limited to grease trap waste, grit trap waste, and septage which is constructed of materials (e.g., concrete, steel, alloy, fiberglass, plastic, etc.) manufactured to provide appropriate structural support for the containment.

TNRCC - Texas Natural Resource Conservation Commission.

Transporter - A person who utilizes a vehicle to transport liquid waste which is:

- (a) disposed of within the Regional Agent Boundary; or
- (b) transferred within the Regional Agent Boundary for the purpose of disposal; or
- (c) collected from a generator or waste hauler within the Regional Agent Boundary.

Trip Ticket - A coupon purchased from SAWS for the disposal of septic or portable/chemical toilet waste at the authorized SAWS disposal facility.

Vehicle - A mobile receptacle or device in which or by which liquid waste may be transported upon a public street or highway.

SECTION 34-512 LIQUID WASTE TRANSPORTATION

1. General

Any person using the streets and/or rights-of-way of the City of San Antonio to transport liquid waste must exercise reasonable, prudent and sufficient care when undertaking such activity in order to preserve the health, safety and general welfare of the community. In order to engage in such activity the transporter must obtain all necessary documents, and comply with all procedures required by local, state and federal regulations.

2. Spills

In the event of a spill during collection or transport, the transporter shall immediately telephone the San Antonio Water System, Wastewater Quality Division, at the telephone number listed in their permit. Notifications made pursuant to this section shall, at a minimum, provide the following:

- (a) the time the discharge occurred;
- (b) the location of the discharge;
- (c) the type of waste discharged (including its concentration, volume, known dangerous characteristics, etc.);
- (d) any corrective actions including diking, if any, taken by the transporter;
- (e) any other conditions, factors or circumstances that would indicate any need for expeditious, specialized or unique response to the discharge.

The transporter shall take any and all action as may be required by local, state, or federal officials having jurisdiction so that the discharge will not present a public health or environmental hazard. Such action may include diking, vacuuming, flushing, applying chemical agents or otherwise neutralizing the discharge.

3. Responsibilities

Failure to promptly and properly notify the appropriate jurisdictional authorities of a spill and take such action as required by said authorities shall constitute a violation of this division.

SECTION 34-513 PERMIT REQUIREMENTS

1. General

A person shall be in violation of this division if he operates or causes the operation of a vehicle on the city streets or public rights-of-way for the purpose of collecting, transporting, or disposing of grease trap waste, grit trap waste, septage, or other liquid wastes without first obtaining a liquid waste transportation permit from the Director or his or her designated

representative. For the purposes of this section, each instance of transporting, collecting, or disposal of such wastes without a permit shall be considered a separate violation.

2. Permit Application

In addition to complying with the proper registration procedures established by the state, a person intending to engage in the activity of transporting grit trap waste, grease trap waste or septage must first submit a permit application to the San Antonio Water System, Wastewater Quality Division and therein supply the Department with the following information and documentation:

- (a) Name, business address, and telephone number of the applicant transporter.
- (b) The trade name under which the applicant transports or intends to transport liquid waste.
- (c) The number and type of vehicles and their tank volumes the applicant shall operate together with a general physical description or manufacturer's trade description of each vehicle; a sworn and notarized affidavit of applicant stating that the transport vehicles meet the minimum specifications and maintenance provisions of Section 34-514 hereinafter set forth; the registration number assigned to such vehicle by the state; and a photocopy of the driver's license of all vehicle operators under the employ of the applicant.
- (d) The period of time the applicant has been engaged in the activity of transporting grit trap waste, grease trap waste, and septage, and the daily hours of operation of his intended transportation activity.
- (e) A statement setting out any record of criminal convictions against the applicant, or anyone under his employ, resulting from the unlawful operation of a vehicle used to transport liquid waste, including grease trap waste, grit trap waste, and septage.
- (f) Documentation evidencing that the applicant has obtained the necessary insurance required under this division.
- (g) Any other requested relevant information which bears a reasonable relationship to the regulation of permittees under this division and is necessary to evaluate the permit application.

3. Investigation of Information Set Out in Application

The staff of the SAWS may conduct an investigation to determine the accuracy of information supplied by the applicant prior to the issuance of a permit. Supplying false information to the Department shall be grounds for refusal to grant a permit or revocation of a permit if already issued. The transporter shall update information contained in the application to reflect any substantive changes in the information required by the initial application prior to making these operational changes.

4. Insurance Requirements

- a. Prior to the issuance of a permit, the applicant must file with the San Antonio Water System, evidence of a policy of public liability insurance and thereafter keep same in full force and effect with an insurance company authorized to do business in the State of Texas. The policy shall insure the public against any loss or damage that may result to any person or property from the operation of a defective vehicle or negligence of the owner or any person driving or otherwise operating such vehicle, and the vehicle insurance provisions of such policy shall provide a minimum amount of coverage in the policy as to each and every transporter vehicle to be not less than One Million Dollars (\$1,000,000.00) for bodily injury or death of any one person, for bodily injury or death in any one accident, for the damage to, or destruction of, property in any one accident.
- b. The policy required by this subsection shall contain a provision requiring that the San Antonio Water System be provided with thirty (30) days advance notice, in writing, of cancellation or material change in the policy. In the event of cancellation or material change in the transporter's policy, the permit shall be suspended until such time as the transporter can again secure appropriate coverage.

5. Permit Fees

Prior to the issuance of a permit, the applicant shall tender to the SAWS the then current initial fee for the first vehicle and the then current fee for each additional vehicle in accordance with the fee permit schedule for vehicles engaged in the activity of transporting liquid wastes. Such fee schedule shall be reviewed by the San Antonio Water System and adjusted as deemed appropriate by the San Antonio Water System Board of Trustees.

6. Vehicle Inspection

Prior to the issuance of a permit, the Department shall require the applicant to submit, for inspection by the Department, each vehicle which will be utilized to transport grit trap waste, grease trap waste, and/or septage. The Department or its agents shall determine if the transport vehicle is constructed and equipped in accordance with Section 34-514 of this division and the tanks, valves, and hoses on the vehicle are in good repair, prior to permit issuance. In addition to the initial Department inspection prior to the issuance of a permit, designated employees of the Department are hereby authorized to re-inspect the vehicles periodically in order to observe that the vehicles are generally maintained in good repair so as not to constitute a public health hazard under the provisions of this division. These inspections may take place at any reasonable and safe location during normal business operation hours and are in no way meant to satisfy the otherwise legally mandated inspection of motor vehicle requirements of any department or agency of the State of Texas. All transport vehicles shall have a valid DPS inspection sticker properly displayed.

7. Issuance of Permit

Upon satisfying the requirements set out in Section 34-513 herein, the Department shall issue a permit to the applicant. The permit shall be valid for a one year period with such period

terminating on December 31st of the year of issuance or reissuance. The requirements set out in Sections 34.513 herein must be satisfied prior to the reissuance of a permit. Any violations of this division by a permit holder during a permit period shall constitute sufficient grounds for refusal, by the Director, to reissue a permit. All permits issued hereunder shall be subject to the following terms and conditions:

- a. A permit issued by the San Antonio Water System pursuant hereto shall specifically exclude and prohibit the transporting, discharge, or disposal of hazardous wastes. Transporters carrying hazardous waste from, within or through, the Regional Agent Boundary must first obtain the special applicable TNRCC or EPA permit(s) and use the appropriate hazardous waste transportation and disposal manifest system.
- b. Prior to the operation of any vehicle regulated by this division, each permitted transporter shall permanently display on both sides and the rear of each vehicle, in a color clearly contrasting with the background, in three inch letters or larger, the business or trade name of the transporter contained in the permit and the following San Antonio Water System vehicle identification number:

SAWS # _____

The blank space shall contain the San Antonio Water System's assigned permit number and specific vehicle suffix digits issued pursuant to this division. The permitted transporter shall keep the permit in the vehicle at all times. Failure to do so will constitute a violation of this division.

- c. A permit issued under this division is non-transferable, and may be revoked by SAWS for violations by the permittee of the term(s) of the permit or of this division..

SECTION 34-514. LIQUID WASTE VEHICLE SPECIFICATIONS AND MAINTENANCE REQUIREMENTS.

All liquid waste transportation vehicles utilizing the city streets and public rights-of-way to transport grit trap waste, grease trap waste and septage must at all operational times conform to the following vehicle specifications and maintenance requirements. Each instance of failure to do so shall constitute a separate violation of this division.

1. Vehicle Specifications

(a) The vehicle must be equipped with tank(s) that is (are) firmly, securely and permanently attached to the primary structure of the vehicle in such a manner as to assure that the tank(s) will not loosen or dislodge during the transport of liquid wastes. Vehicles with portable or removable tank(s) or other containers temporarily attached or affixed to vehicles are prohibited.

(b) All piping, valves, and connectors shall be permanently attached to the tank(s) and/or vehicle.

- (c) The tank(s) must be liquid tight.
- (d) The tank(s) must be constructed so that every interior and exterior portion can be thoroughly cleaned.
- (e) All piping, valves, and connections shall be accessible and easy to clean.
- (f) The inlet, or the opening of the tank(s) shall be constructed and located so that collected waste shall not spill during filling, transfer or transport.
- (g) Outlet connections shall be constructed so that no liquid waste shall discharge, leak, run or spill out from the tank(s).
- (h) Outlets are to be of a design and type suitable for the liquid waste to be safely removed and be capable of controlling outflow without discharge, spillage, spray, or flooding of immediate surroundings while in use.
- (i) Pumps, valves, cylinders, diaphragms and other appurtenances shall be of a design and type suitable for the liquid waste to be safely loaded, transported and removed, be capable of operation without discharge, spillage, spray or leakage, and be easily disassembled for cleaning.

2. Maintenance Requirements

A liquid waste transporter shall:

- (a) Maintain hoses, tanks, valves, pumps, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good operation and repair and free from leaks.
- (b) Provide a safety plug or cap for each inlet and outlet tank valve.
- (c) Cause the vehicle exterior to be clean, vector free and relatively odor free at the beginning of each working day and provide for intermittent wash downs of vehicle exterior and wash outs of tank interiors as necessary to maintain the above conditions at all times.

SECTION 34-515. RESPONSIBILITIES OF LIQUID WASTE TRANSPORTERS

All liquid waste transporters shall conform to the following terms and conditions in collecting, transporting, and disposing of liquid waste. Any liquid waste transporter failing to comply with the responsibilities and requirements set forth below shall be in violation of this division. Each instance of non-compliance shall constitute a separate violation.

1. Determine Nature of Material

Prior to accepting a load of liquid waste for transportation, a liquid waste transporter shall, to the best of his ability, determine the volume, nature and classification of the material to be

transported and that his/her permit, vehicle and equipment are sufficient to legally and properly accept, transport, and dispose of the load without discharge, spillage, leakage of the material, or release of malodorous fumes. Upon delivery of the waste to the disposal site, the transporter shall inform the disposal site operator of the content of the waste. At the discretion of the Department or the disposal site operator, the liquid waste presented for disposal may be sampled and tested prior to disposal to verify the classification, quality, concentration, character or volume of the liquid waste. The SAWS cost for conducting any positive, confirming test resulting in verification of unpermitted transport or prohibited discharge shall be paid by the permittee.

2. Interceptor Evacuation

A liquid waste hauler shall completely evacuate all grease or grit traps and other interceptors during servicing. Further, the discharge of liquid, semi-solids, or solids back into an interceptor after servicing is strictly prohibited.

3. No Mixing of Different Types of Waste

A liquid waste transporter shall not mix different classifications of wastes in the same tank load. A transporter permitted by the SAWS to transport grease trap waste, grit trap waste, or septage shall not mix wastes of one of these waste classifications in the same tank load with another of these waste classifications.

4. Storage of Liquid Wastes

The storage of liquid wastes in unpermitted temporary storage tanks by liquid waste transporters is prohibited.

5. Utilize Appropriate Disposal Sites

All liquid waste transporters shall only dispose of liquid waste at disposal sites approved, designated, or permitted by the appropriate federal or state regulatory agency to receive the particular classification of waste being transported.

6. Utilization of Manifest System By Transporters of Grease Trap Waste, Grit Trap Waste, and Septage

All liquid waste transporters holding a SAWS permit for transporting grease trap waste, grit trap waste, and septage shall utilize the manifest system set out in Section 34-516 herein. It is the responsibility of the permittee to assure that all manifests are completely and accurately filled out in a timely manner.

7. Contractual Requirement

All liquid waste transporters holding a SAWS permit for transporting grese trap waste, grit trap waste, and septage shall perform all business transactions relating to liquid waste

collection, transportation and/or disposal on a contractual basis via written contract, and provide copies of all such contracts to the Division upon request by SAWS.

SECTION 34-516. MANIFEST SYSTEM

A manifest system consisting of manifest booklets shall be used by all transporters holding SAWS permits to transport grease trap waste, grit trap waste, and septage. Each manifest shall thoroughly document the following information :

- (a) the quantity and type of liquid waste being transported;
- (b) the generator's name, address, and signature at the point of receipt of liquid wastes by the transporter;
- (c) the transporter's corporate, business or trade name;
- (d) the transport vehicle operator's name with signature;
- (e) the transporter's permit number issued by the San Antonio Water System;
- (f) the registration number assigned to the transporter's vehicle by the state;
- (g) the time of disposal; and
- (h) the signature of the disposal site operator.

1. Manifest booklets

- a. Manifest booklets shall be purchased from the San Antonio Water System in accordance with the fee schedules currently in effect. Such fee schedules may be adjusted or amended from time to time by formal San Antonio Water System Board of Trustees action. Manifest booklets shall be annotated as appropriate for the disposal of either grit trap waste or grease trap waste or septage. Manifest booklets shall also be marked as appropriate for use with certain liquid waste transportation vehicle tank capacities. A transporter must complete one manifest for each generator location serviced, with the exception of chemical/portable toilet companies servicing their own units. Chemical/portable toilet companies servicing their own units which may be located at various locations shall be required to complete one manifest for each vehicle load transported. Each individual carbonless, print-trace manifest shall consist of five parts:

- (1) The white original of the manifest shall be signed by the transporter and generator at the time of the liquid waste collection.
- (2) The yellow copy shall be given to the generator once signed by both the transporter and generator.
- (3) The white original of the manifest shall be signed by the disposal site operator at

the time of disposal and the pink copy maintained by the disposal site operator.

(4) The green copy of the manifest shall be maintained by the transporter.

(5) The gold copy shall be returned to the generator within thirty (30) days upon completion of the above steps.

It shall be the responsibility of the liquid waste transporter to return the gold copy to the generator within thirty (30) days of disposal.

- b. The Director may make administrative modifications of the manifest form used. Each manifest booklet shall contain 25 manifests serially numbered. The Department shall keep a record of the manifest serial numbers purchased by the liquid waste transporter. The Department may issue more than one manifest booklet to any transporter, at the Department's discretion, based on volume of business, number of trucks, etc. Additional manifest booklets may be purchased only after previously issued and completed manifest booklets have been properly returned to the Department.
- c. In the event that a manifest booklet is lost or stolen, the permittee shall submit a sworn and notarized affidavit stating the circumstances surrounding the loss of the booklet; the probable contents of the wastes transported and disposed of, and efforts made to locate the booklet. After reasonable investigation by the Department indicates no fraudulent or wrongful acts by the permittee, the Department shall not unreasonably deny continued purchase of manifest booklets.

2. Unlawful Use of Manifests

Falsification of any information required in a manifest shall be grounds for immediate suspension or revocation of a SAWS liquid waste transportation permit and each instance of falsification shall be considered a separate violation of this division. The physical transfer of manifests by a permit holder to anyone other than the permittee's transportation vehicle operators or the Department is prohibited. Purchase and/or resale of manifests from any source other than the Department is prohibited. Each instance of purchase, transfer, or resale of manifests shall constitute a separate violation of this division.

3. Maintenance of Manifest Records

All permittees shall maintain all transporter manifest copies for a period of three (3) years. All generators shall maintain generator manifest receipts for a period of three (3) years. All disposal site operators shall maintain all manifest copies for a period of three (3) years. The Department shall maintain completed manifest booklets for a period of three (3) years. Should any pending administrative law proceeding or litigation mandate that such records be preserved for more than three (3) years, affected persons shall adhere to the dictates of those proceedings.

SECTION 34-517. DISPOSAL SITE PROCEDURES

All liquid waste transporters permitted hereunder shall follow the procedures required by the appropriate city, state, or federal authority when disposing of liquid waste in a registered or permitted disposal site under the jurisdiction of such authority. Additionally, the following procedures must followed by liquid waste haulers holding SAWS permits when disposing of grease trap waste, grit trap waste, and septage at one of the SAWS approved liquid waste disposal sites.

1. Disposal Site Entry/Exit

SAWS permit holders shall exercise caution when entering and exiting disposal sites and shall obey all traffic control regulations and especially speed limit signs and direction signs.

2. Disposal Procedures

A SAWS permit holder shall not dispose of waste at the disposal site until authorized disposal personnel have done the following:

- (a) inspected the permit holder's permit to see if it is still valid;
- (b) verified that the manifest being presented by the permittee's employee is appropriate for both the classification of waste being transported and the vehicle tank capacity being used;
- (c) signed the manifest and received the disposal site operator's copy of same; and
- (d) verified and collected the appropriate volume of trip tickets required for disposal.

A liquid waste transporter who fails to follow these procedures shall be in violation of this division.

SECTION 34-518. RESPONSIBILITIES OF GENERATOR AND DISPOSAL SITE OPERATOR

The generators and disposers of liquid waste, including grit trap waste, grease trap waste and septage, shall have the following responsibilities, and failure to perform such responsibilities shall constitute a violation of this division:

1. Generators

- a. It shall be the responsibility of every generator of liquid waste to:
 - (1) know or ascertain the contents, characteristics and classifications of wastes generated.
 - (2) have liquid waste removed from his premises by a transporter holding the proper SAWS, city, state, and/or federal permits or registrations required to collect and transport

such waste.

- (3) make a determination that the waste to be hauled under this division is non-hazardous, as required.
- b. A generator of hazardous waste, or liquid waste in combination with hazardous waste, shall only have such waste removed from his premises by a transporter holding the applicable state or federal permit or registration to transport said wastes.
- c. A generator of grease trap waste or grit trap waste shall have traps serviced as frequently as necessary to prevent bypass or overflow, and to insure proper operation of the trap. Such generators, at a minimum, shall, at a minimum, have grease and/or grit traps serviced quarterly or as approved by the Director in accordance with all other provisions of this division.
- d. A generator of grit trap waste, grease trap waste or septage shall sign the manifest presented by the liquid waste transporter holding a SAWS permit and shall keep the receipt for a period of three (3) years. Appropriate Department personnel may inspect such receipts during normal business hours.
- e. A generator shall, in addition to the requirements above, be responsible for performing the following:
 - (1) install or provide a collection point for grit trap waste, grease trap waste, or septage of a size and type specified by the appropriate city, state, or federal authority, if any such specification exists. This facility may be the same (with possible modifications or adaptations) required by the SAWS pursuant to the Industrial Waste Division No. 77784 as may be amended.
 - (2) continuously maintain the collection point in an accessible, clean, safe and proper operational condition.
 - (3) supervise the proper maintenance of the collection point.
 - (4) report discharges, spills or accidents involving the collection point which pose a threat to the public health or potential damage to the environment involving the collection point to the Department immediately.
 - (5) recover all accidental spills and discharges immediately and have such waste disposed of by a transporter holding a valid permit, license or registration from the appropriate city, state, or federal authority.

2. Disposal Site Operators

Liquid waste disposal site operators which accept liquid waste from a transporter permitted by the SAWS shall comply with the terms of this division and receive waste from a transporter holding a SAWS permit issued hereunder according to the requirements of the

permit and this division. Every disposal site operator shall maintain the operator's copy of a manifest from a SAWS liquid waste transporter permit for a period of three (3) years. The disposal site operator shall make manifest copies available for inspection by appropriate Department personnel during normal business hours.

SECTION 34-519. SUSPENSION OF PERMIT

The Director may suspend or revoke permit upon a finding by the Division that a permittee, or an agent or employee of the permittee has violated any of the terms or conditions of the permit or of this division and that the number or severity of the violations justify the suspension of the permit.

SECTION 34-520. ENFORCEMENT

1. Notice of Alleged Violations

Whenever the Director believes that any person or permittee has violated or is violating this division and/or the liquid waste transportation permit, the Director or his designated representative may serve (either personally or by registered or certified mail) upon such person or permittee a written notice stating the nature of the alleged violation. The recipient of an alleged violation notice must respond in writing to the Director or his designated representative within fifteen (15) working days from the receipt of such notice.

Should the recipient of an alleged violation notice fail to respond in writing to the Director within the initial fifteen (15) working day response period, as outlined in Section 34-520, the recipient person or permittee shall be deemed to have admitted to responsibility for the violation.

2. Response by Person or Permittee to Notice of Alleged Violation

The person or permittee responding to receipt of an alleged violation notice shall file written response, as required by Section 34-520, in the most applicable of the following forms:

(a) Should the person or permittee admit his or her responsibility for the alleged violation, the person or permittee must submit a letter report to the Director which;

- 1) If the nature of the violation of either the permit or this division involves a discharge or disposal of liquid waste that is prohibited herein, contain information regarding the time, date, location, cause, source, quantity, quality and concentration of the discharge or disposal and the corrective measures actually taken by the person or permittee to recover or neutralize the discharge, self-reporting notices submitted to any state, federal or other agencies having jurisdiction, and actions to be taken by the person or permittee to prevent any similar recurrent discharges or disposal.
- 2) If the nature of the violation of either the permit or this division involves an administrative or procedural non-compliance, the letter report shall contain information regarding corrective measures and time schedules the person or permittee

has adopted to assure expeditious and continued compliance.

(b) Should the person or permittee deny his or her responsibility for the alleged violation, the person or permittee must submit a letter report to the Director explaining why responsibility is being contested.

3. Legal Action

Despite of any other provisions contained in this division, the Environmental Counsel of the SAWS is hereby authorized to seek legal and/or equitable remedies against any person or corporation believed by the Department to be violating or have violated this division, the provisions of a liquid waste transportation permit, and/or federal or state laws governing water quality, industrial wastewater pretreatment, and hazardous or non-hazardous liquid waste transportation over which SAWS has enforcement authority. A legal proceeding prosecuted under this division does not constitute a waiver by the San Antonio Water System of any right the City may have to join in a legal action originating from an alternative source of law.

The San Antonio Water System may commence such actions for appropriate legal and/or equitable relief in courts having proper jurisdiction and 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 local, state, or federal code or statute.

4. Penalties

(a) **Criminal** - A conviction for violation of this division shall constitute a class C misdemeanor. A person convicted of a violation of this division shall be fined a minimum amount of not less than \$200.00 per violation and a maximum amount of not more than \$2000.00 per violation. 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. A culpable mental state is not required to prove an offense under this division. The President/CEO of the San Antonio Water System is hereby authorized to designate qualified San Antonio Water System personnel to serve notices of violations of this section and take all necessary action to file a complaint with the Municipal Prosecutor's Office.

(b) **Civil** - A civil penalty in an amount not to exceed \$5,000.00 per violation of this division may be imposed. Each violation of a particular section of this division shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this division. A culpable mental state is not required to prove an offense under this ordinance.

SECTION 34-521. SEVERABILITY

If any word, phrase, clause, paragraph, part or provision of this division or its subsections or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of that subsection and of this division shall nevertheless be

valid, and the City Council hereby declares that the subsection would have been enacted without such invalid, or unconstitutional word, phrase, clause, paragraph, part or provision.

SECTION 34-522. RIGHT OF REVISION

The City reserves the right to amend this Division at any time to establish more stringent specific limitations or requirements on disposal to the regional wastewater transportation and treatment system if deemed necessary by the City to protect the collection, treatment operations and processes or to cure or prevent an effluent quality problem in potential landfill leachates, treated wastewater and/or resulting sludges. The City reserves the right to amend this Division to comply with the general objectives and purposes presented in Article V, Division 3, Industrial Waste and Pre-treatment, with consideration of recommendations of the Industrial Wasterwater Advisory Board (IWAB).

SECTION 34-523. CONFLICT

All other divisions and parts of other divisions directly conflicting with any part of this Division are hereby repealed only to the extent of such direct conflict.

SECTIONS 34-524 - 34-500 Reserved.

APPENDIX VI

Sec. 34-566. Powers and duties of the SAWS Board.

- (a) The Board shall have the following powers:
- (1) To make or have made examinations of all wells, privately owned or otherwise, within the limits of the City of San Antonio or within SAWS service area;
 - (2) To make or have made at any time the necessary analyses or tests of water therefrom;
 - (3) To go upon the land and property of the owner of a well for any purpose allowed in this Division;
 - (4) To require the owner to furnish all information requested concerning a well, including, in the case of new wells, complete logs of the well showing depth to and depth through all geologic formations encountered;
 - (5) To supervise the construction, repair, and plugging of wells and the operation of such wells. The Board or its duly authorized agent shall keep a register of all wells within the limits of the City of San Antonio or within SAWS service area. This register shall show for each well the name of the owner, exact location, date of construction, depth and diameter, the purpose for which the well was constructed, and, if applicable, date of plugging.
- (b) It shall be a violation of this division for any person to refuse or otherwise fail to comply with any requirement of this division, or with any order of the Board made in conformity with and under the authority of this division.

Sec. 34-567. Permit for Drilling New Well Required.

- (a) It shall be unlawful for anyone to drill, maintain, or otherwise construct or have constructed, any new water well, or any other artificial excavation to explore for or produce groundwater, within the City of San Antonio or SAWS service area, without first applying for and securing a well drilling permit from the SAWS Water Quality Division. This section shall not apply to: (1) monitoring wells and test wells with a depth of less than 50 feet; (2) blast holes in quarries and mines; and (3) wells or excavations for the exploration or production of oil, gas, or minerals, unless, without regard to the original purpose, the well is used as a source of water.
- (b) All drilling or construction of water wells shall be done in strict compliance with the terms of the well drilling permit, the SAWS Water Well Permitting Procedures, and 31 TAC, Chapter 287.
- (c) In addition to the requirements of paragraphs (a) and (b) of this section, any water well which will penetrate the Edwards Aquifer shall be drilled and maintained in strict compliance with 31 TAC, Sections 313 et seq., as amended.

Sec. 34-568. Permit for Repair or Closure of Existing Well Required.

It shall be unlawful for any person to reconstruct, repair, correct, or plug a well, or to engage upon such work, within the City of San Antonio or the SAWS service area, or to employ anyone else to engage in such work, without first applying for and securing a permit from the SAWS Water Quality Division.

Sec. 34-569. Application for Permit -- Information Required.

Every application for a permit for the drilling, construction, repair, or plugging of a well shall be considered incomplete unless all information requested by the SAWS application form has been provided. The SAWS Water Quality Division shall maintain and update permit application terms to request all information necessary to carry out the intent of this division and to assure protection of the Edwards Aquifer by detecting and preventing the drilling or use of wells in a manner that may cause damage to or waste of water in the Aquifer.

Sec. 34-570. Inspection Before Issuance of Permit.

It shall be the duty of the SAWS Water Quality Division to consider every permit application submitted under this division, to inspect the property where any well will be drilled, sunk, dug, or bored, and to refuse issuance of a permit when:

- (a) the location or manner of construction of the proposed well does not meet with the Water Quality Division's approval of drainage and other sanitary conditions; or
- (b) the proposed well would be located on property to which water service is currently available from SAWS or any other recognized water purveyor; or
- (c) water service from existing SAWS water mains or service lines could be established to the property on which the proposed well is located at a cost equal to or less than the cost of drilling the well; or
- (d) the intended use of the water to be produced by the proposed well could be accomplished using reuse water, and reuse water service is available to the property or could be made available at a cost equal to or less than the cost of drilling the proposed well.

Sec. 34-571. Execution of Permit.

All permits shall be executed in triplicate, one (1) copy to be delivered to the applicant and two (2) copies to be retained in the SAWS Water Quality Division.

Sec. 34-572. Permit fees.

The fees to be paid to the Board for the permits required by this article shall be as follows:

Permit for closure or repair of existing well	\$ 50.00
Permit for drilling new well	\$ 200.00

These fees may be amended from time to time by the Board as deemed necessary.

Sec. 34-573. Nuisance of Defective or Contaminating Wells, Abatement.

(a) Any defective or contaminating well, as described herein, is hereby found to be a threat to the water supply of the City, a potential source of disease, injurious to the public health, and is hereby declared a nuisance.

(b) For the purpose of this division a Contaminating Well is considered to be any well or other opening which penetrates the underground water supply and which in any way pollutes or contaminates any other well or the city's water supply.

(c) For the purpose of this division a Defective Well is considered to be: any well, whether dug or drilled, which for any reason does not completely prevent, or which has the potential to allow, the mixing of water or other liquid from above and below the source of the City's water supply (i.e., the Edwards Aquifer) with the water in the source of the City's water supply; or any water well that was constructed without a permit and associated inspections.

(d) The City, acting through the Board, pursuant to said § 217.042 or § 401.002 of the Texas Local Government Code Ann. (Vernon's 1994), and § 342.001 of the Texas Health & Safety Code Ann. (Vernon's 1994), may require the abatement of such nuisance. The Water Quality Division may, on its own initiative or upon information or complaint from any source, make an examination of any well suspected of being defective. If such examination indicates in the opinion of the Director of SAWS Water Quality Division that the well is a contaminating or defective well or that the water from such well is unsafe for human consumption, then the Director of SAWS Water Quality Division shall issue an order or written instructions to the owner or his agent in charge of such well or the property upon which it is situated to plug this well in such a manner as prescribed by the Board and in compliance with TNRCC regulations and SAWS Water Well Permitting Procedures.

Sec. 34-574. Abandoned wells.

(a) For the purpose of this division a well is considered to be an abandoned well if it has not been used for a period of six (6) consecutive months or longer. A well is considered to be in use in the following cases:

- (i) A non-deteriorated, non-defective or non-contaminating well which contains the casing, pump and pump column in good condition, and which is connected to an active electrical or other power source; or

- (ii) A non-deteriorated, non-defective or non-contaminating well which has been properly capped, and for which a variance has been granted by the Water Quality Division.

(b) It is hereby declared that an abandoned well, as defined in subsection (a) above, has the potential to pollute the City's water supply or be otherwise injurious to the public health, and, pursuant to Tex. Loc. Gov't Code Ann. §§ 217.042 and 401.002 (Vernon's 1994), is hereby declared a nuisance, for which the City, acting through the Board, pursuant to the Code, may require the abatement of such nuisance.

(c) The owner, operator, or agent in charge of an abandoned well shall notify the Water Quality Division of that condition. Every abandoned well shall be filled and plugged in accordance with all applicable TNRCC regulations and SAWS Water Well Permitting Procedures and with such materials and in such manner as in the judgment of the Director of the Water Quality Division will prevent the pollution and contamination of the City's water supply or of any other well within the limits of the city.

(d) Whenever SAWS shall receive notice from any source of the existence of an abandoned well which has not been plugged and filled in accordance with the provisions of this division, Water quality Division shall notify the owner, operator, or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall order such person to fill and plug the well in accordance with this division of the Code.

(e) The Water Quality Division may require any owner of a capped well to take any action necessary or to provide any information or materials necessary to establish that such a capped well is not defective, contaminating, or deteriorated.

Sec. 34-575. Failure To Abate Nuisance, Remedies.

Should the owner, operator, or agent in charge responsible for the contaminating, defective, or abandoned well which has been declared a nuisance, or for the property on which it is situated, fail to abate such nuisance within the prescribed time from the date of issuance of notice of nuisance or order issued pursuant to sections 34-573 or 34-574 hereof, or if, after exercising reasonable diligence, the Board is unable to locate the owner, operator, or agent in charge, the City, acting through the Board, pursuant to the Health & Safety Code §§ 342.001 et seq., shall have the right to go on the property upon which the well is situated and abate such nuisance in the manner provided, and the owner thereof shall be liable to the City for the cost of such work and shall pay such cost upon demand, and the City, acting through the Board, shall have the right to file a lien on the property to secure payment of the costs of such work.

Sec. 34-576. Variance and Appeal.

(a) A person who has properly applied for and has been denied a permit by the Water Quality Division under Sections 34-567 thru 34-570 hereof may request a variance from the application of this Division. All requests for variances shall be made in writing to the Water Quality Division and shall include:

- (i) the subject of the requested variance, and
- (ii) the justification for granting a variance.

(b) The party requesting a variance has the burden of demonstrating that sufficient evidence exists for the granting of a variance to these rules, and the Water Quality Division shall consider and provide a written response to all such variances.

(c) If a variance is granted for the construction of a water well, the water well shall be constructed by a State-licensed driller and according to the methods outlined in the SAWS Water Wells Permitting Procedures. This construction shall occur under the authority of the Permit to Drill issued by the Board and under the inspections associated with the permit.

(d) Any variance granted under this section shall have a term of three (3) years from the date of issuance, and any activity which would otherwise be prohibited by this division except for the existence of a variance may not continue after the expiration of the applicable variance.

(e) Any person who properly requests a variance pursuant to this section which is denied by decision of the Water Quality Division, may appeal such denial to the President and C.E.O. of SAWS by filing a request for appeal within ten (10) days from the date notice of denial is received. The President and C.E.O. may require additional information from or request a meeting with the person making the appeal, and the decision of the President and C.E.O. on the issuance of a variance or permit under this division shall be considered final.

Section 34-577. Criminal Penalty

(a) The President and C.E.O. of the San Antonio Water System is hereby authorized to designate qualified San Antonio Water System personnel to serve notices of violations of this section and take all necessary action to file a complaint with the Municipal Prosecutor's Office.

(b) A conviction for violation of this division shall constitute a class C misdemeanor. A person convicted of a violation of this division shall be fined a minimum amount of not less than \$200.00 per violation and a maximum amount of not more than \$2000.00 per violation. 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. A culpable mental state is not required to prove an offense under this ordinance.

Section 34-578. Civil Penalty

A civil penalty in an amount not to exceed \$1,000.00 per violation of this division may be imposed. Each violation of a particular section of this division shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this division. A culpable mental state is not required to prove an offense under this division.

Section 34-579. Additional Enforcement Remedies

In addition to any other remedies provided by this division, the City of San Antonio and SAWS may, at any time, seek legal and/or equitable remedies or file criminal charges against any person, corporation or other entity believed to be in violation of this division. In furtherance thereof, the attorney for SAWS is authorized and instructed to commence any action, in law or in equity, including the filing of criminal charges for the purpose of enforcing this division.

Section 34-580. Conflict

No provision of this division is intended nor shall any part or portion hereof be construed so as to conflict with the Texas Water code, any regulations adopted by the TNRCC, or any other Charter Code provision or Ordinance pertaining to reuse or conservation.

Section 34-581. Severability

If any provision of this division or the application thereof to any person or circumstance shall be held to be void or invalid for any reason, the remainder of this division and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this division would have been enacted without such invalid provision.

Sections 34-582 through 34-590. Reserved.

APPENDIX VII

Section 34-701. Definitions.

The following terms shall have the following meanings for the purpose of this division:

- (a) **The San Antonio Municipal Separate Storm Sewer System (MS4)** - the system of conveyances, including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which:
 - (1) provide collection or conveyance of stormwater, rain water, flood water, or other surface water; and
 - (2) are located on public property; and
 - (3) are not designed and intended to be part of the collection system of a sanitary sewer system utilized by a Publicly Owned Treatment Works (POTW) as defined in Title 40 C.F.R. 122.2.
- (b) **Brush Cuttings, Clippings** - all herbaceous materials, including lawn trimmings and leaves.
- (c) **Household Hazardous Waste** - waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by its interaction with other wastes or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this division household hazardous wastes include but are not limited to paint, paint thinners, paint solvents, beaches, and drain cleaners.
- (d) **Pesticide** - any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and/or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (e) **Rubbish** - inorganic solid waste including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, glass, crockery, tin and aluminum cans, metal furniture, and other like materials.

Section 34-702. Prohibited discharges into the MS4.

- (a) It shall be a violation of this division for any person to deposit, throw, drain, discharge, cause or allow to be deposited, thrown, drained or discharged, or otherwise cause to be injected into the MS4, or any storm sewer manhole, catch basin, private drain, ditch, street, gutter, creek, stream, tributary, or any other drainage device which connects with or drains into the MS4, any of the following

described materials or substances within the corporate limits of the City of San Antonio:

- (1) Any acid waste materials;
 - (2) Any alkaline waste materials;
 - (3) Any water or waste containing free-floating, or insoluble oil;
 - (4) Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
 - (5) Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property; or
 - (6) Any domestic wastewater or industrial wastewater as defined in Article V, Division 3 of this Chapter.
- (b) It shall be a defense to prosecution under this section that such person was authorized to commit any act under a valid permit from the Texas Natural Resource Conservation Commission or the United States Environmental Protection Agency, which would otherwise constitute a violation at the time of commission.

Commentary : It is the intent of this division to prohibit indiscriminate discharging to the MS4; such indiscriminate discharging includes dumping or releasing of any accumulations of process materials, washing or cleaning materials or other wastes into the MS4. It is also the intent to eliminate improper storage or handling of dangerous, hazardous, or otherwise harmful materials in such a manner as to cause or allow their discharge into the MS4. However, these regulations are not intended to prohibit discharge of non-contaminated and non-polluting water, such as fire hydrant flushing, runoff from fire fighting, non-chlorinated swimming pool or hot tub drainage, uncontaminated pumped groundwater, discharges from potable water sources, non-contact cooling waters, ventilation and air conditioning condensation water that POTWs require to be discharged to separate storm sewers rather than to sanitary sewers, etc.,

Section 34-703. Placing Brush Cuttings, Clippings, and/or Rubbish into the MS4

- (a) It shall be a violation of this division for any person to deposit, discard or dump, or cause or allow to be deposited, discarded or dumped any brush cuttings, clippings, or rubbish within the MS4.
- (b) It shall be a violation of this division for any person to place or cause or allow to be placed or dropped, brush cuttings, clippings, and/or rubbish within any street in the corporate limits of the city in such a manner that the same may be washed by the flow of water into the MS4.

Commentary: It is the intent of this section to restrict placement of rubbish, brush, lawn clippings or leaves, etc. into the MS4. It is also the intent to require that during certain seasons when leaves are shed that these materials are removed properly and prevented from collecting in mass quantities in the streets or MS4. It is recognized that from time to time during certain seasons or during normal yard maintenance, leaves, clippings, etc. will fall into the streets.

Section 34-704. Placing Household Hazardous Wastes into the MS4

- (a) It shall be a violation of this division for any person to place, or cause or allow to be placed, a household hazardous waste within the MS4.
- (b) It shall be a violation of this division for any person to place, or cause or allow to be placed, a household hazardous waste within any street in the corporate limits of the city in such a manner that the same may be washed by the flow of water into the MS4.

Commentary: The intent of this ordinance is to prohibit those conducting household activities such as cleaning, renovating, painting, auto repair, and other similar activities which utilize household hazardous wastes from discarding such wastes into the MS4, or from performing any activity that would result in the contamination of the MS4 with such household hazardous wastes.

Section 34-705. Prohibiting the Improper Use of Pesticides in Order to Keep Them From Entering the MS4.

- a. It shall be a violation of this division for any person to cause or allow a pesticide to enter into the MS4.
- b. It shall be a violation of this division for any person to utilize a pesticide in a manner inconsistent with the proper usage set out in the labelling for such pesticide in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).
- c. It shall be a violation of this division for any person to utilize a pesticide which is not properly labelled in accordance with FIFRA.
- d. It shall be a defense to prosecution under this section that the person accused of such violation utilized a pesticide in accordance with the requirements of FIFRA in a manner consistent with its labelling. The term "labelling" pursuant to Section 136 of FIFRA means all labels and all other written, printed or graphic matter:
 - (1) accompanying the pesticide or device at any time; or
 - (2) to which reference is made on the label or in literature accompanying the pesticide or device except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges,

and other Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

Commentary: It is recognized that excess pesticides will migrate into the MS4 even under normal and proper usage. It is the intent of this ordinance to restrict the usage of those chemicals to the manner deemed appropriate by their manufacturer and consistent with FIFRA.

Section 34-706. Authority to Enforce Outside The City Limits

- a. Pursuant to the authority granted under Section 401.002 V.T.C.A. Local Government Code, a prohibited act or discharge identified in Sections 34-702 through 34-705 hereof shall be enforceable outside the city limits if the prohibited act or discharge:
 - (1) causes or contributes to the pollution of a stream, drain or tributary which provides a source of recharge water for the Edwards Aquifer; or
 - (2) causes harm to, pollutes, or is in any way contrary to the protection of any watershed which drains into the MS4.
- b. It shall be a defense to prosecution under this section that a person was authorized to commit the prohibited discharges set out in Section 34-702 herein, under a valid permit from the Texas Natural Resource Conservation Commission or the United States Environmental Protection Agency.

Section 34-707. Authority to Enforce within 5,000 ft. Outside the City Limits

- a. Committing a prohibited act or discharge, as set out in Sections 34-702 through 34-705 herein, within 5,000 ft. outside the corporate limits of the City of San Antonio is found to be contrary to the public health and welfare and is hereby deemed and declared to be a nuisance pursuant to Section 217.042 of the Local Government Code.
- b. It shall be a defense to prosecution under this section that a person was authorized to commit the prohibited discharges set out in Sections 34-702 through 34-705 herein under a valid permit from the Texas Natural Resource Conservation Commission or the United States Environmental Protection Agency.

Section 34-708. Criminal Penalty.

- a. A conviction for violation of this division shall constitute a class C misdemeanor. A person convicted of a violation of this division shall be fined a minimum amount of not less than \$200.00 per violation and a maximum amount of not more than \$2000.00 per violation. 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. A culpable mental state is not required to prove an offense under this ordinance.

- b. The President/CEO of SAWS is hereby authorized to designate qualified SAWS personnel to serve notices of violations of this section and to take all necessary actions to file a complaint with the Municipal Prosecutor's Office.

Section 34-709. Civil Penalty.

A civil penalty in an amount not to exceed \$5,000.00 per violation of this division may be imposed. Each violation of a particular section of this division shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this division.

Section 34-710. Additional Enforcement Remedies.

- a. In addition to any other remedies provided by this division, the City of San Antonio and SAWS may, at any time, seek legal and/or equitable remedies or may file charges against any person, corporation, or other entity believed to be in violation of this division. In furtherance thereof, the SAWS Legal Department is hereby authorized and instructed to commence any action, in law or in equity, including the filing of charges for the purpose of enforcing this division.
- b. The use of negotiated civil settlements or other methods of alternative dispute resolution to reach a civil settlement is hereby authorized; provided that the civil penalty imposed by any such agreement or settlement is of a sufficient amount in relation to the violations to which they provide a sanction.

Section 34-711. Conflict.

No provision of this Division is intended to, nor shall any part or portion hereof be construed, so as to conflict with the Texas Water Code.

Section 34-712. Severability.

If any provision of this division or the application thereof to any person or circumstance shall be held to be void or invalid for any reason, the remainder of this division and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this division would have been enacted without such invalid provision.

Sections 34-713 through 34-900. Reserved.