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ARTICLE VI. - WATER QUALITY CONTROL AND POLLUTION PREVENTION

DIVISION 2. WELLS

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

- (a) The San Antonio Water System (SAWS) 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; , or as a requirement to obtain a Utility Service Agreement;
 - (2) To sample or have sampled water from any well and make or have made analyses or tests of such water from any well located within the City of San Antonio, the City of San Antonio extra-territorial jurisdiction (ETJ), SAWS service area, or as a condition to obtaining a Utility Service Agreement and to require a well owner to obtain a well log if no such log is available;~~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;

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- (4) To require the owner to furnish all available information when 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. This requirement includes at least one borehole per geothermal system;
 - (5) To supervise the construction, repair, and plugging of wells and the operation of such wells. The SAWS Board or its duly authorized agent shall keep a register of all wells within the limits of the City of San Antonio, City of San Antonio ETJ or within SAWS service area. This register shall, at a minimum, 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 SAWS Board made in conformity with and under the authority of this division.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-566.5. - *Definitions*

- a. Abandoned well means any water supply well that is no longer in use, is not properly maintained and operated, or is in such a state of disrepair that using it to obtain water is impractical or a health or environmental hazard.
- b. City means the City of San Antonio a Texas home rule city
- c. Contaminating well means a well that allows the detrimental alteration of the naturally occurring physical, thermal, chemical, or biological quality of groundwater
- d. Defective well means a well that is structurally compromised, either at the ground surface or in the subsurface that would potentially allow the entrance of surface water into the well or the mixing of waters within the wellbore that is not permitted by applicable regulations.
- e. Geothermal borehole means a borehole drilled or bored into the earth into which piping is inserted for use in a geothermal system
- f. Geothermal system means a geothermal system uses the Earth's thermal properties in conjunction with electricity to provide greater efficiency in the heating and cooling of buildings.
- g. TCEQ means the Texas Commission on Environmental Quality

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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, or geothermal borehole ~~or injection wells~~ for the purpose of a earth-coupled heat exchange system, within the City of San Antonio or SAWS service area, without first applying for and securing a well drilling permit from the SAWS Resource Protection & Compliance (RPC) Department. ~~Water Quality Division~~. This section shall not apply to: (i) monitoring wells and test wells with a depth of less than fifty (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, and injection wells for the purpose of an earth-coupled heat exchange system, shall be done in strict compliance with the terms of the well drilling permit, the SAWS Water Well Permitting Procedures, International Ground Source Heat Pump Association (IGSHPA) and 30 Texas Administrative Code (TAC), Chapter 331., and 30 TAC, Chapter 238

(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 30 TAC, ~~Sections~~ Chapter 213 et seq., as amended. This paragraph does not apply to borehole loops for the purpose of an earth-coupled heat exchange system.

(d) To preserve the water quality of the Edwards Aquifer ~~the aquifer~~, the construction of any bore hole, injection well for the purpose of an earth-coupled heat exchange system, or water well for the purpose of an earth-coupled heat exchange system located over the Edwards Aquifer Recharge Zone and Transition Zone shall be prohibited.

(e)

An open system, geothermal well that draws water from an aquifer ~~that~~ and is circulated through a ~~the~~ heat exchange system or geothermal wells which inject water into an aquifer, or to a surface water body, will not be permitted within the limits of the

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City of San Antonio, City of San Antonio ETJ, ~~or and~~ within SAWS service area.
(*Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97*)

Sec. 34-568. - Permit for repair or plugging of existing well required.

It shall be unlawful for any person to reconstruct, repair, correct, or plug a well or injection well for the purpose of an earth-coupled heat exchange system, or to engage upon such work, within the City of San Antonio, San Antonio ETJ, 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 RPC Department ~~Water Quality Division~~.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-569. - Application for permit—Information required.

Every application for a permit for the drilling, construction, repair, or plugging of a well or the construction of an injection well for the purpose of an earth-coupled heat exchange system, shall be considered incomplete unless all information requested by the SAWS application form has been provided. The SAWS RPC Department ~~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 ground water aquifers by detecting and preventing the drilling or use of wells in a manner that may cause damage to or waste of water in an aquifer.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-570. - Inspection before issuance of permit.

It shall be the duty of the SAWS RPC Department ~~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 SAWS RPC Department's ~~water quality division's~~ approval of drainage and other sanitary conditions, or does not meet applicable State well construction requirements; or ~~or~~

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(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, or from any other water purveyor, 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 as required by the RPC Department; or 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.

(e)

Subsection (b), (c) and (d) of this section do not apply to injection wells for the purpose of an earth-coupled heat exchange system.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

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 Resource Protection & Compliance Department. A permit is valid for 6 months from the date of issuance of the permit. ~~Water Quality Division.~~

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-572. - Permit fees.

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

Permit for closure or repair of existing well~~\$320.00~~ \$385.00

Permit for drilling new well~~384.00~~ \$455.00

Permit for the construction of a geothermal heat exchange system 200.00

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The San Antonio Water System Board of Trustees is hereby authorized to amend the fee schedule, as needed, by official resolution, when a change in the amount of fees is required to adequately recover the costs reasonably related to the performance of these functions for which the fee is charged.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97; Ord. No. 2007-12-13-1345, § 2(Att. B), 12-13-07)

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 of San Antonio, 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 (the ground water aquifers) 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 of San Antonio, acting through the SAWS 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 SAWS RPC Department ~~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 SAWS RPC Department ~~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, or his authorized representative of the SAWS RPC Department ~~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 SAWS Board and in compliance

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with TNRCC regulations and SAWS Water Well Permitting Procedures. In the event that a surface or subsurface release of contaminants occurs within the immediate area of a well, the owner of that well shall allow SAWS to conduct an inspection, or to conduct monitoring activity of that well. If that well is later found to be contaminated, SAWS may direct the owner to plug and abandon that well.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

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 SAWS RPC Department ~~Water Quality Division~~.

(b)

It is hereby declared that an abandoned well, as defined in subsection (a) above, has the potential to pollute the water supply or be otherwise injurious to the public health, and, pursuant to Tex. Loc. Govt. Code Ann. §§ 217.042 and 401.002 (Vernon's 1994), is hereby declared a nuisance, for which the City of San Antonio, acting through the SAWS 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 SAWS ~~Water Quality Division~~ RPC Department of that condition. Every abandoned well shall be ~~filled and~~ plugged in accordance with all applicable ~~TCEQ~~ 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 SAWS RPC Department ~~Water Quality Division~~ will prevent the pollution and contamination of the City of San Antonio's water supply or of any other well within the limits of the city of the SAWS service area.

(d)

Whenever SAWS shall receive notice from any source of the existence of an

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abandoned well which has not been plugged and filled in accordance with the provisions of this division, the SAWS RPC Department ~~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 SAWS RPC Department ~~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.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

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 SAWS Board is unable to locate the owner, operator, or agent in charge, the City of San Antonio, acting through the SAWS 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 of San Antonio for the cost of such work and shall pay such cost upon demand, and the City of San Antonio, acting through the SAWS Board, shall have the right to file a lien on the property to secure payment of the costs of such work

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-576. - Variance and appeal.

(a)

A person who has properly applied for and has been denied a permit by the SAWS RPC Department ~~Water Quality Division~~ under sections 34-567 through 34-570 hereof may request a variance from the application of this division. All requests for variances shall be made in writing to the SAWS RPC Department ~~Water Quality Division~~ and shall include:

(i)

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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 SAWS RPC Department ~~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 SAWS 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 SAWS RPC Department ~~Water Quality Division~~, may appeal such denial to the president and CEO of SAWS by filing a request for appeal within ten (10) days from the date notice of denial is received. The president and CEO may require additional information from or request a meeting with the person making the appeal, and the decision of the president and CEO on the issuance of a variance or permit under this division shall be considered final.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-577. - Criminal penalty.

(a)

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.

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(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 two hundred dollars (\$200.00) per violation and a maximum amount of not more than two thousand dollars (\$2,000.00) 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.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-578. - Civil penalty.

A civil penalty in an amount not to exceed one thousand dollars (\$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.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 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 SAWS Environmental Counsel 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.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 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 TCEQ, or any other Charter Code provision or ordinance pertaining to reuse or conservation.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

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Sec. 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.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Secs. 34-582—34-590. - Reserved.