

ORDINANCE 2024-11-07-0875

**APPROVING AMENDMENTS TO CHAPTER 34 OF THE CITY CODE
RELATING TO THE ADMINISTRATION OF THE BACKFLOW
PROGRAM, CLARIFYING DEFINITIONS AND INSPECTION AUTHORITY, AND OTHER MINOR LANGUAGE ADJUSTMENTS.**

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WHEREAS, the San Antonio Water System (“SAWS”) operates a combined water and wastewater utility system on behalf of the City of San Antonio, which serves approximately 511,300 water and 457,600 wastewater customers in the San Antonio metropolitan area; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) requires all public water systems to maintain a cross-connection control program that protects the distribution system delivering drinking water to homes and businesses; and

WHEREAS, the City has adopted ordinances, codified in Chapter 34, Article VI, Division 8 of the City Code, for the purpose of preventing contamination of the SAWS’ potable water delivery system; and

WHEREAS, SAWS has implemented a backflow prevention program that is described in and authorized by Chapter 34, Article VI, Division 8 of the City Code, for the purpose of preventing contamination of SAWS’ potable water delivery system; and

WHEREAS, the failure to have the backflow prevention assembly tested can lead to contamination of the public water supply as well as to the water on the customer’s property; and

WHEREAS, SAWS Board of Trustees recommends changes to the administration of the backflow prevention program; and

WHEREAS, the proposed amendments to Chapter 34 include, but are not limited to, the following:

- Adjustment to the due date of Test and Maintenance Reports from June 30th to a rolling twelve months, to better accommodate customers, spread the use of inspection resources throughout the year, and to accommodate moving to a third-party administrator.
- Clarification of the definitions related to backflow assembly.
- Clarification of the wording and authority of SAWS to inspect backflow prevention assemblies.
- And other minor language adjustments.

WHEREAS, in the exercise of its governmental regulatory authority, the City Council has determined that the recommended changes to Chapter 34 of the City Code are reasonable and necessary and in the best interests of the San Antonio metropolitan area; **NOW THEREFORE:**

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

SECTION 1. Chapter 34 of the City Code of San Antonio, Texas (City Code), and prior City Council Ordinances regarding same, are hereby amended to be consistent with this Ordinance and its attachments. Chapter 34 of the City Code is hereby amended, as set forth in Exhibit A which is attached hereto and incorporated herein for all purposes, by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. All other provisions of Chapter 34 of the City Code shall remain unchanged and in full force and effect, unless expressly amended by this Ordinance.

SECTION 3. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format, and number paragraphs to the existing Code.

SECTION 4. If any part, section, paragraph, sentence, phrase or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid, or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

SECTION 5. The recitals set out above and all exhibits attached hereto are fully incorporated into this Ordinance.

SECTION 6. There is no financial impact because of the passage of this Ordinance.

SECTION 7. This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage.

PASSED AND APPROVED this 7th of November, 2024.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

PART II - CODE
Chapter 34 - WATER AND SEWERS
ARTICLE VI. - WATER QUALITY CONTROL AND POLLUTION PREVENTION
DIVISION 8. BACKFLOW PREVENTION

DIVISION 8. BACKFLOW PREVENTION

Sec. 34-1075. General provisions.

- (a) *Purpose.* The purpose of this division is to prevent the contamination of water delivered by public water systems by requiring the maintenance, repair, inspection and testing of backflow prevention assemblies.
- (b) *Application.* This division shall apply within the corporate limits of the city and within the extraterritorial jurisdiction of the city.
- (c) *Definitions.* As used anywhere in this division, the following terms are defined to mean:

Backflow means the reversal of the flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a public water system.

Backflow prevention assembly means an assembly that, when properly installed between the SAWS water supply system and the terminus or point of ultimate use, will prevent backflow. Examples of such assemblies include but are not limited to, reduced pressure backflow assemblies, double-check valve assemblies, pressure vacuum breakers, and spill resistant vacuum breakers.

Backflow prevention assembly tester (BPAT) means an individual licensed in accordance with the Texas Commission on Environmental Quality rules and registered by SAWS to test backflow prevention assemblies.

Backflow program administrator means a third party who assists SAWS with managing the backflow assemblies, backflow prevention assembly test and maintenance reports (T&M reports), and associated records.

City means the City of San Antonio, a Texas home rule municipality.

Cross-connection means any actual or potential connection or structural arrangement between a public or consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can occur are considered to be cross-connections.

Customer means the SAWS account owner or person responsible for the backflow assembly. If there is no SAWS open account, the owner, occupant, manager, or other person in control of the property or premises or the person responsible for the maintenance of the property determined to be the source of a violation of this division shall be considered the customer.

Person means an individual, partnership, joint venture, firm, company, corporation, association, joint stock company, governmental entity, trust, estate, sole proprietorship, or legal entity of any kind or character.

Public water system means a system for the provision of water to the public as defined in Title 30 of the Texas Administrative Code, Section 290.38.

SAWS means the San Antonio Water System, a public water system and an agency of the city, created by City Ordinance No. 75686, passed April 30, 1992.

T&M Report means TCEQ approved Backflow Test and Maintenance report prepared by the BPAT tester.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2019-02-14-0123, § 1(Att. I), 2-14-19)

Sec. 34-1076. Backflow prevention assemblies.

- (a) Cross connections are prohibited. A customer is prohibited from maintaining a backflow prevention assembly, plumbing fixture, equipment, or any other assembly that permits backflow, or failing to install a backflow prevention assembly that is required by the City Code.
- (b) Each customer shall cause backflow prevention assemblies to be installed in compliance with the provisions of chapter 10 of the City Code, and the international plumbing code and appendices as amended that are adopted by the city in that chapter.
- (c) Customer responsibility. The customer is responsible for all listed backflow requirements, including maintaining, submitting proof of the annual inspection, and all requirements set out in this division as long as there is a water connection to the SAWS system, whether active or inactive. The customer is further responsible for the portion of any privately owned potable water system lying between the service connection (the terminal end of the connection from the public water system or downstream end of the meter) and the point of use by the customer. This includes but is not limited to, all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or utilize potable water.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2019-02-14-0123, § 1(Att. I), 2-14-19)

Editor's note(s)—Ord. No. 2019-02-14-0123, § 1(Att. I), adopted Feb. 14, 2019, amended § 34-1076, and in so doing changed the title of said section from "Backflow prevention devices" to "Backflow prevention assemblies," as set out herein.

Sec. 34-1077. Inspection and testing.

- (a) Each customer is responsible for the maintenance and repair of each backflow prevention assembly that is located on the customer's property.
- (b) Each customer shall have each backflow prevention assembly located on a customer's property inspected and tested annually by a [BPAT and shall also be tested immediately after installation, relocation, repair or work performed upstream of the assembly. However, more frequent testing may be required if notice is provided by the SAWS to the customer](#). The BPAT performing the inspection and testing shall complete a report of each inspection and testing on a form approved by the public water system that provides water to the property where the backflow prevention assembly is located.
- (c) Each customer shall repair or replace a backflow prevention assembly that fails a test before returning the backflow prevention assembly to service. If an assembly fails a backflow prevention assembly test, the BPAT tester shall immediately notify the customer and submit a failed backflow T&M report to the system, via the approved submission process. The assembly shall be replaced or repaired within the period set by SAWS or within five (5) calendar days from the date of assembly failure whichever date is sooner. In the event of assembly failure, water service shall not be connected or restored until the assembly has been repaired or replaced and passes a retest unless written authorization is given by SAWS that water service is authorized to be connected or restored at an earlier date.
- (d) Each customer or the customer's representative shall deliver the annual T&M report that is required to be performed by this section to the designated backflow program administrator for the public water system that provides water to the property where the backflow prevention assembly is located before the end of

the designated month assigned by SAWS, based on the last T&M report submitted to SAWS. If a T&M report has not previously been submitted, SAWS will assign submission months throughout a twelve-month cycle.

- (e) A T&M report must be completed by a BPAT for each assembly tested. The signed and dated form must be submitted to the public water system that provides water to the property where the backflow prevention assembly is located within ten (10) days after the completed test. Only SAWS or an approved TCEQ backflow prevention assembly test and maintenance forms will be accepted. T&M reports must be submitted in the format designated by SAWS. The submission of the T&M forms may include the submission through a designated backflow program administrator. SAWS or its designated backflow program administrator will determine how the T&M forms submission shall be done, which includes but is not limited to electronic submission. All TCEQ requirements for submission must be followed by the T&M submitter. All test and maintenance reports shall be retained by the owner of the property where the backflow prevention assembly is located for at least three (3) years after the date of any such test.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2019-02-14-0123, § 1(Att. I), 2-14-19)

Sec. 34-1078. Fees.

- (a) To recover the costs for the implementation of this division, each customer shall pay the applicable fee for existing backflow and maintenance report that is provided in section 10-83 of the City Code, for each backflow prevention assembly for which an annual inspection is required by this division to the public water system providing water to the location of each backflow prevention assembly. The fee shall be delivered to the public water system with the report of annual inspection and testing that is required by this division. Subject to city council approval, the governing body of each public water system is authorized to amend the amount of the fee charged to recover the costs reasonably related to the performance of the functions for which the fee is charged. The fee may be waived if the report prepared by the state licensed backflow assembly tester that is required by this division is submitted online through the San Antonio Water System electronic submission program.
- (b) If a customer fails to submit or deliver the annual report of backflow testing and inspection as set out in section 34-1077(d), the public water system may assess a cost recovery fee to the customer upon notice of the violation. The cost recovery fee shall be assessed as follows:

1—3 Assemblies - \$82.00

4—9 Assemblies - \$114.00

>9 Assemblies - \$174.00

Failure to pay the cost recovery fee in a timely manner shall subject the customer to suspension of service, and/or bar the reconnection or resumption of service until such time as the fee is paid.

- (c) The fee amounts are effective January 1, 2024. The fee amount shall be adjusted on January 1 of each year thereafter by the percentage difference (greater than zero (0)) between the Consumer Price Index for All Urban Consumers (CPI-U) as it is calculated by the United States Bureau of Labor Statistics at the end of the month of July prior to the next year and as it was calculated at the end of the month of July one (1) year earlier, and subsequently rounded to the nearest dollar. SAWS will periodically perform a cost of service analysis to ensure that the fee charged does not exceed the cost of providing the service.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2019-02-14-0123, § 1(Att. I), 2-14-19; Ord. No. 2022-11-10-0867, § 2(Att. II), 11-10-22; Res. No. 2023-198, 10-3-23)

Sec. 34-1079. Emergency suspension.

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- (a) The chief executive officer of a public water system may suspend water service and disconnect service to a customer if the chief executive officer determines that contamination or pollution due to backflow presents an imminent threat to the public water system, presents an imminent danger to public health or safety, or threatens to interfere with the operation of the public water system.
 - (b) A person notified of the suspension of the person's service by a public water system pursuant to this section shall immediately stop the use of the public water system's water. If a person fails to immediately suspend use of the public water system's water, the public water system may take the actions it determines are necessary to prevent contamination or pollution, or to minimize damage to the public water system.
 - (c) The authority granted in this section is in addition to the authority granted to SAWS in section 34-1081 of this division.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1080. Access to property.

A public water system, through its employees or authorized agents, may enter property that receives water service from the public water system to inspect backflow prevention assemblies. The customer shall make all necessary arrangements, at its sole expense, to remove security barriers or other obstacles to allow access by public water system personnel without delay. Failure to provide access for the inspection of backflow prevention assemblies shall be considered a violation of this division.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2019-02-14-0123, § 1(Att. I), 2-14-19)

Sec. 34-1081. Enforcement.

- (a) The failure to perform any action that is required by this division, or the performance of any action that is prohibited by this division shall constitute a violation of this division.
- (b) Criminal penalty. A conviction for a violation of any provision of this division shall constitute a class C misdemeanor. A person convicted of a violation of any provision of this division shall be fined an amount of not less than two hundred dollars (\$200.00) per violation and a maximum of not more than two thousand dollars (\$2,000.00) per violation. Each violation of this division shall constitute a separate offense, and each day a violation continues shall be considered a new offense. A culpable mental state is not required to prove an offense under this division.
- (c) Civil penalty. A civil penalty may be imposed for each violation of any provision of this division in an amount not to exceed five thousand dollars (\$5,000.00) per violation. Each violation of any provision of this division shall constitute a separate violation, and each day a violation continues shall be considered a new violation.
- (d) Authorization to enforce. SAWS is authorized to take any action authorized by this division against any person committing a violation of this division within SAWS service area. The grant of authority set out in this section does not in any way diminish the authority of the office of the city attorney to take any action necessary to enforce the terms of this division, to prosecute violations of this division, and to defend the legality of this division, if challenged.
- (e) Additional enforcement remedies. In addition to any other remedies provided in this division, the city, or SAWS for violations of this division that occur within its service area may, at any time, pursue any other legal and/or equitable remedy to require compliance with this division.
- (f) SAWS shall provide written notice of a violation of this division to a customer and if the violation is not completely remedied within ninety (90) days after the date of the notice, then in that event SAWS may

terminate water and/or sewer service to the location where the violation occurred in accordance with the procedures set out herein.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11; Ord. No. 2022-11-10-0867, § 2(Att. II), 11-10-22)

Secs. 34-1082—34-1100. Reserved.