

AN ORDINANCE **97000**

**ENABLING THE SAN ANTONIO WATER SYSTEM, ON BEHALF OF THE CITY OF SAN ANTONIO, TO PURSUE ENVIRONMENTAL ENFORCEMENT AUTHORITY GIVEN TO LOCAL GOVERNMENTS PURSUANT TO CHAPTER 26 AND §7.351 OF THE TEXAS WATER CODE, AND FURTHER AMENDING CHAPTER 34 OF THE CITY CODE OF ORDINANCES TO REFLECT SUCH AUTHORITY IN THE SAN ANTONIO WATER SYSTEM AS WELL AS THE OFFICE OF THE CITY ATTORNEY.**

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**WHEREAS**, Texas Water Code §7.351 authorizes local governments to institute civil suits under Texas Water Code, Chapter 7. Subchapter D, in the same manner as the Texas Natural Resource Conservation Commission (TNRCC), now known as the Texas Commission on Environmental Quality (TCEQ), to address a violation or a threatened violation of Chapter 26 of the Texas Water Code, or of a rule, order, or permit issued under that chapter; and

**WHEREAS**, the Texas Water Code §7.352 further requires that a local government desiring to exercise such powers pertaining to violations of Chapter 26 of the Texas Water Code must also adopt a resolution authorizing the exercise of such power; and

**WHEREAS**, the San Antonio Water System Board of Trustees acted under separate Resolution 02-313 to approve such enforcement authority to allow the SAWS legal department to address violation or threat of violation of Chapter 26 of the Texas Water Code or a rule adopted or an order or a permit issued under Chapter 26, whereby a local government may institute a civil suit in the same manner as the TCEQ in a district court for injunctive relief or civil penalty or both; and,

**WHEREAS**, the City of San Antonio shall concurrently, with passage of this Ordinance, create a similar Resolution, further directing the City Clerk to transmit to the TCEQ an official copy of the City's enabling legislation evidencing the creation of enforcement powers in the San Antonio Water System, as well as the Office of the City Attorney, which powers are enabled to local governments by Texas Water Code §7.351, including the exercise of all enforcement powers pertaining to violations or threatened violations of Chapter 26 of the Texas Water Code; and

**WHEREAS**, it is in the best interest of the City of San Antonio to enhance water quality by enforcing the provisions of the Texas Water Code, in particular, but not limited to rules and protections intended for the Edwards Aquifer; and

**WHEREAS**, it is necessary to amend Chapter 34 of the Code of Ordinances of the City of San Antonio to reflect the grant of authority to the San Antonio Water System, as well as the Office of the City Attorney, to exercise all statutory enforcement powers for violations or threatened violations of Chapter 26 of the Texas Water Code; **NOW, THEREFORE**;

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

**SECTION 1.** Chapter 34, section 34-9.2 of the Code of Ordinances of the City of San Antonio, Texas, shall be amended, as provided below, to include a provision authorizing the San Antonio Water System, as well as the Office of the City Attorney, to exercise all powers under Chapter 7 of the Texas Water Code that are afforded to local governments, pursuant to Texas Water Code §7.351 and §7.352, which provisions allow local governments to pursue civil prosecution for violations or threatened violations of Chapter 26 of the Texas Water Code or a rule adopted or an order or permit made thereunder; and, for which authorization and amendment the City shall concurrently make a Resolution, as required by Sec. 7.352 of the Texas Water Code, memorializing the authorization of such enforcement powers and directing the City Clerk to transmit an official copy of the City's legislation and resolution to the appropriate official of the TCEQ or other entity so requiring evidence of such authority.

**SECTION 2.** The City of San Antonio Code of Ordinances, Chapter 34, Article I, Division 9 Enforcement, is hereby amended by adding underlined language and omitting ~~stricken~~ language, as follows:

**Sec. 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, as well as the Office of the City Attorney, are hereby granted the additional authority to exercise all powers allowed under the Texas Water Code, Chapter 7, §7.351 and §7.352, which enforcement powers are here authorized to address violation or threat of violation of Chapter 26 of the Texas Water Code or a rule adopted or an order or a permit issued under Chapter 26 of the Texas Water Code by instituting a civil suit (under Subchapter D, General Powers and Duties of the Commission, Texas Water Code §§ 5.101, et. seq.) in the same manner as the Texas Commission on Environmental Quality (TCEQ) in a district court for injunctive relief or civil penalty or both. The authority here authorized shall survive change in name of the TECQ and the succession of any agency to the the TCEQ. 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 3.** This ordinance shall take effect on the 19<sup>th</sup> day of January, 2003.

**PASSED AND APPROVED** this 9th day of January, 2003.

ATTEST: *Isabel G. Leduon*  
CITY CLERK

*Edward D. Garza*  
MAYOR PRO TEM  
EDWARD D. GARZA

APPROVED AS TO FORM: *Richard P. ...*  
CITY ATTORNEY