



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## Meeting Agenda City Council

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Monday, March 24, 2014

5:00 PM

Council Chambers

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### REGULAR MEETING

1. **5:00 P.M. - CALL MEETING TO ORDER**

2. **WORK SESSION TO BE HELD IN THE MULTI-PURPOSE ROOM**

Utility Department Presentation - Joe Smolinski

3. **RECESS INTO EXECUTIVE SESSION**

*Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.*

A. **Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071**

Seek Advice of City Attorney Regarding Pending Litigation - Cause No. 348-270155-14

B. **Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072**

C. **Personnel Matters Pursuant to Section 551.074**

Board Appointments; Mansfield Economic Development Corporation

D. **Deliberation Regarding Negotiations of the Industrial Development Corporation of an Offer of a Financial or Other Incentives to a Business Prospect Pursuant to Section 551.087**

Project #13-20 - Entertainment Business Prospect

Project #13-19 - Hospitality Project Briefing and Update

4. **6:50 P.M. – COUNCIL BREAK PRIOR TO REGULAR BUSINESS SESSION**

5. **7:00 PM OR IMMEDIATELY FOLLOWING EXECUTIVE SESSION - RECONVENE INTO REGULAR BUSINESS SESSION**

6. **INVOCATION**

7. **PLEDGE OF ALLEGIANCE**

8. **TEXAS PLEDGE**

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State Under God; One and Indivisible"

9. **PRESENTATIONS**

Methodist Health System - Dr. Steve Mansfield, CEO

10. **CITIZEN COMMENTS**

*Citizens wishing to address the Council on non-public hearing agenda items and items not on the agenda may do so at this time. Once the business portion of the meeting begins, only comments related to public hearings will be heard. All comments are limited to 5 minutes. Please refrain from "personal criticisms."*

*In order to be recognized during the "Citizen Comments" or during a Public Hearing (applicants included), please complete a blue or yellow "Appearance Card" located at the entry to the City Council Chamber and present it to the City Secretary.*

11. **COUNCIL ANNOUNCEMENTS**

12. **STAFF COMMENTS**

*In addition to matters specifically listed below, Staff comments may include updates on ongoing or proposed projects and address of posted agenda items.*

A. **City Manager Report or Authorized Representative**

Current/Future Agenda Items

13. **TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION**

14. **CONSENT AGENDA**

*All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately. Otherwise, approval of the consent agenda authorizes the City Manager to implement each item in accordance with staff's recommendation.*

**ITEMS TO BE REMOVED FROM THE CONSENT AGENDA**



[14-0817](#) Ordinance - Third and Final Reading of an Ordinance Approving Historic Landmark Overlay District Classification for Properties Located at 107 N. Main Street, 124 N. Main Street and 128 N. Main Street; City of Mansfield (ZC#14-002)

**Sponsors:** Felix Wong

**Attachments:** [Ordinance](#)  
[Maps and Supporting Information](#)

[14-0818](#) Ordinance - Third and Final Reading on an Ordinance Approving Amendment of Section 7100.D of the Zoning Ordinance Pertaining to Regulations on Window Signs (OA#14-001)

**Sponsors:** Felix Wong

**Attachments:** [Final Ordinance](#)

[14-0822](#) Ordinance - Third and Final Reading of an Ordinance Amending the Regulations in Chapter 114 of the Mansfield Code of Ordinances, "Gas Well Drilling and Production", Pertaining to Noise, Hours of Operation, Notification, and Other Drilling, Operation, and Production Activities (OA#14-002)

**Sponsors:** Felix Wong

**Attachments:** [Map of Drill Sites within 1000ft of protected uses](#)  
[Electric Drilling Chesapeake](#)  
[ADDE 2009NTCE-01-01Tech Paper](#)  
[Comments from gas well operators](#)  
[Revised Ordinance](#)

[14-0860](#) Ordinance - Second Reading of an Ordinance Amending Regulations of Smoking in Chapter 92, "Health and Sanitation" of the Mansfield Code of Ordinances by Adding Definitions for "Electronic Vaping Device" and "Liquid Nicotine;" Amending the Definition of "Smoking" to Include Electronic Vaping Devices; Prohibiting Smoking at City Parks or Recreational Facilities; Prohibiting the Sale and Distribution of Electronic Vaping Devices and Liquid Nicotine to Minors; and Prohibiting the Possession of Electronic Vaping Devices and Liquid Nicotine by Minors

**Sponsors:** Felix Wong

**Attachments:** [Electronic Vaping Devices Research](#)  
[Regulations of Smoking Amended](#)  
[Ordinance Smoking Revised](#)

[14-0850](#) Resolution - Authorization of Funding for an Amount not to Exceed \$106,000 and Approval of Contracts to include Bannister Engineering for Design Services for Antler Drive Improvements (MEDC)

**Sponsors:** Scott Welmaker

**Attachments:** [RES Bannister Antler Drive](#)  
[Antler Dr](#)

- [14-0851](#) Resolution - Authorization of Funding for an Amount not to Exceed \$50,000 and Approval of Contracts to include Charles Crook Consulting for Design Services for the Mitchell Road Improvements (MEDC)

**Sponsors:** Scott Welmaker

**Attachments:** [RES Crook Mitchell Road](#)  
[Mitchell Rd](#)

**END OF CONSENT AGENDA**

**15. PUBLIC HEARING AND FIRST READING**

- [14-0845](#) Ordinance - Public Hearing and First Reading of an Ordinance Revising the Water Conservation and Drought Contingency Sections of Ordinance 1384 "Water Demand Management / Drought Contingency Plan"

**Sponsors:** Joe Smolinski

**Attachments:** [TCEQ Letter](#)  
[Ordinance 2014 Water Demand Management Plan](#)  
[Addendum A 2014 Water Conservation Plan](#)  
[Addendum B 2014 Drought Contingency Plan](#)

**16. PUBLIC HEARING CONTINUATION AND SECOND READING**

- [14-0842](#) Ordinance - Public Hearing Continuation and Second Reading of an Ordinance Approving a Zoning Change from MF-2, PR, I-1 & 2F to SF-7.5/16, SF-8.4/18, SF-12/22, MF-2 and C-2 on Approximately 555 Acres, Generally Located at the Intersection of South 2nd Avenue and FM Road 917 and East of FM Road 917, West of South Main Street and North of English Trail; Setback Partners (ZC#14-001)

**Sponsors:** Felix Wong

**Attachments:** [Proposed Zoning Illustration](#)  
[Maps & Supporting Information](#)  
[Ordinance](#)  
[Exhibit A](#)  
[McCaslin Gas Well & Pipeline Easement Locations](#)

- [14-0844](#) Ordinance - Public Hearing Continuation and Second Reading on an Ordinance Approving a Zoning Change from PR to C-2 on Approximately 10.5 Acres, Generally Located at the Southeast Corner of E Debbie Lane and Matlock Road; Hijo, Ltd. (ZC#14-003)

**Sponsors:** Felix Wong

**Attachments:** [Ordinance](#)  
[Maps & Supporting Information](#)  
[Exhibit A](#)

**17.     NEW BUSINESS**

[14-0864](#)     Consideration and Possible Action to Suspend the Procedural Rules of Council and Reschedule the Regular City Council Meeting of April 28, 2014 to April 29, 2014

**Sponsors:**     Vicki Collins

**Attachments:**   [Procedural rules of Council](#)

[14-0866](#)     Board Appointment; Mansfield Economic Development Corporation (MEDC)

**Sponsors:**     Scott Welmaker

**18.     ADJOURN**

**CERTIFICATION**

I, the undersigned authority do hereby certify that the above agenda was posted on the bulletin board next to the main entrance of the City Hall, 1200 East Broad Street, of the City of Mansfield, Texas, in a place convenient and readily accessible to the general public at all times and said Agenda was posted on the following date and time: Thursday, March 20, 2014 by 5:00 p.m., and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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Vicki Collins, City Secretary

Approved as to form:

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Craig Magnuson, Attorney, City of Mansfield

1. This building is wheelchair accessible. Parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meeting. To make arrangements, call (817) 473-0211 or (TDD) 1-800-RELAY TX, 1-800-735-2989.

2. In deciding a zoning change application, the Planning and Zoning required to determine the highest and best use of the property in question. The Planning and Zoning Commission may recommend and the Council may approve a change in zoning to the category or district requested by the applicant or to any zoning category or district of lesser intensity. Notice is presumed sufficient for every district up to the intensity set forth in the zoning change application.

This public notice was removed from the official posting location at the Mansfield City Hall on the following date and time:

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By: \_\_\_\_\_  
City Secretary's Office



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0817

**Agenda Date:** 3/24/2014

**Version:** 3

**Status:** Third and Final  
Reading

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

**Title**

Ordinance - Third and Final Reading of an Ordinance Approving Historic Landmark Overlay District Classification for Properties Located at 107 N. Main Street, 124 N. Main Street and 128 N. Main Street; City of Mansfield (ZC#14-002)

**Requested Action**

To consider the subject zoning change request.

**Recommendation**

The Historic Landmark Commission held a public hearing on January 29, 2014, and voted 7 to 0 to recommend approval

The Planning and Zoning Commission held a public hearing on February 3, 2014, and voted by 7 to 0 to recommend approval.

**Description/History**

The properties are currently zoned C-4. While the addition of the Overlay District will not change the current zoning, it will help preserve the historic character of these buildings, and ensure that future changes are done in a manner consistent with the City's historic preservation guidelines.

The three buildings - McKnight Building, 107 N. Main (c. 1900); Nugent Building, 124 N. Main (c. 1900); and Huitt Café and Meat Market Building, 128 N. Main (c. 1895) - are worthy of preservation due to the following:

1. These buildings are located on the historic block of Main Street and are representative of buildings of their era.
2. These buildings are associated with persons who contributed to the development of Mansfield.
3. The overall building architecture still retains historic value despite alterations.

**Prepared By**

Felix Wong, Director of Planning  
817-276-4228

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO GRANT A HISTORIC LANDMARK OVERLAY DISTRICT CLASSIFICATION FOR THE HEREINAFTER DESCRIBED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of the Comprehensive Zoning Ordinance, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to owners of the affected properties, the governing body of the City is of the opinion and finds that the Comprehensive Zoning Ordinance and Map should be amended;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:**

**SECTION 1.**

That the Comprehensive Zoning Ordinance of the City of Mansfield, Texas, be, and the same is hereby, amended by amending the Zoning Map of the City of Mansfield, to give the hereinafter described properties a Historic Landmark Overlay District Classification:

- Lot 3B, Block 1, Original Town of Mansfield Addition located at 128 North Main Street
- Lot 4B, Block 1, Original Town of Mansfield Addition located at 124 North Main Street
- Lot 8B, Block 2, Original Town of Mansfield Addition located at 107 North Main Street

**SECTION 2.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

### **SECTION 3.**

That the above described properties shall be used only in the manner and for the purposes provided for in the Comprehensive Zoning Ordinance of the City, as amended herein by the granting of this zoning classification.

### **SECTION 4.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

### **SECTION 5.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

### **SECTION 6.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**David L. Cook, Mayor**

ATTEST:

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**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

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**Allen Taylor**, City Attorney





**HLC#14-001**  
**ZC# 14-002**

This information is for illustrative purposes only. Not for design or development purposes. Site-specific studies may be required to obtain accurate feature locations. Every effort is made to ensure the information displayed here is accurate; however, the City of Mansfield makes no claims to its accuracy or completeness.

01/14/2014





HLC#14-001  
ZC# 14-002

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01/14/2014



## **HISTORIC BACKGROUND**

The historic backgrounds for these properties are described in the Tarrant County Historic Resources Survey and the records of the Mansfield Historic Society as follows:

### **107 N. Main Street – McKnight Building (c. 1900):**

“This small brick commercial building displays brick corbelling at the cornice and cast-iron columns framing the storefront. It was built about 1900. The earliest known occupant was J.H. Page Dry Goods Store. Restaurants have been in the building since at least the 1930’s. It is a contributor to a potential commercial historic district on Main Street.”

### **124 N. Main Street – Nugent Building (c. 1900):**

“This small brick commercial building was built for Joseph Nugent...possibly for his own office use. Purchased by C.A. Smith and Sons in the early 1900’s, the building remained in the Smith estate until 1968. The building is best remembered as the Curry Bros. Grocery, which operated here from c. 1908 to 1925. Since 1925, it has been rented to a variety of businesses. The building exhibits patterned and corbelled brickwork. The Nugent Building is a contributor to the potential Main Street Historic District.”

### **128 N. Main Street – Huitt Café and Meat Market Building (c. 1895):**

The building was constructed c. 1895. “The Huitt Café and Meat Market was located in the building. John H. Strahan was the owner of the butcher shop. John Huitt worked for John Strahan and learned the trade. Mr. Strahan was noted for his chili recipe. Will Ferris had a butcher shop in the building prior to Strahan. Tom Beard ran an auto salvage store in 1941-1942. In 1943, Nettles Café and Pool Hall moved into the building. Paul Wagner opened Wagner Floors in January 1985. They stayed there for about a year before moving. Mansfield Variety Store was also in the building. The Security Corner opened for business in the building in 1978. The current occupant is J. Matthew Crocker, CPA.”

107 N. Main Street – McKnight Building



124 N. Main Street – Nugent Building



128 N. Main Street – Huitt Café and Meat Market



# Property Owner Notification for HLC# 14-001 and ZC# 14-002

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
MANSFIELD, CITY OF	BLK 2 LOT 1A	PETROSERV INC	5604 WEBSTER ST	HALTOM CITY, TX	76117-3346
MANSFIELD, CITY OF	BLK 1 LOT 1	SWAIM, RICHARD E	435 FM 2258	VENUS, TX	76084-4728
MANSFIELD, CITY OF	BLK 1 LOT 2R	MCCLENDON, JIMMY R ETUX MARY E	27 FOREST DR	MANSFIELD, TX	76063-6615
MANSFIELD, CITY OF	BLK 1 LOT 3B	128 N MAIN ST LLC	128 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LOT 4A	SMITH, ROBERT A	126 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LOT 4A	SMITH, ROBERT A	126 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LOT 4B	124 N MAIN ST LLC	128 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LOT 5C	PIRATE COFFEE PROP-TX LLC	PO BOX 373	DEPOE BAY, OR	97341-0373
MANSFIELD, CITY OF	BLK 1 LOT 7B	PATTERSON, JOHN E ETUX CANDY	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 1 LOT 8A	PATTERSON, JOHN E ETUX CANDY L	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 1 LOT 9B	MANSFIELD HISTORICAL SOCIETY	PO BOX 304	MANSFIELD, TX	76063-0304
MANSFIELD, CITY OF	BLK 2 LOT 2A	SMITH, ROBERT A ETUX ANN B	126 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 2 LOT 6B	JORDAN, DEBORAH	515 NORTHMEADOW DR	ARLINGTON, TX	76011-2230
MANSFIELD, CITY OF	BLK 2 LOT 8B	107 N MAIN ST LLC	128 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 2 LOT 9A	MARTIN, JOE R JR	PO BOX 91588	ARLINGTON, TX	76015-0088
MANSFIELD, CITY OF	BLK 2 LOT 9B	ERNST REALTY INVESTMENTS LLC	101 N MAIN ST STE 101	MANSFIELD, TX	76063-7712
MANSFIELD, CITY OF	BLK 2 LOTS 7B & 8A	MORALES, CHARLES	5880 NEWT PATTERSON RD	MANSFIELD, TX	76063-6152
MANSFIELD, CITY OF	BLK 3 LOT 4	GEYER, GLORIA	108 W BROAD ST	MANSFIELD, TX	76063-1659
MANSFIELD, CITY OF	BLK 3 LOT 5A	GEYER PROPERTIES	PO BOX 2181	MANSFIELD, TX	76063-0039

# Property Owner Notification for HLC# 14-001 and ZC# 14-002

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
MANSFIELD, CITY OF	BLK 5 LOT 2R	MELLOW MUSHROOM THREE PEAT INC	1527 INVERNESS RD	MANSFIELD, TX	76063-2962
MANSFIELD, CITY OF	BLK 64 LOT 2R	MARTINEZ FAMILY LTD	116 SMITH ST	MANSFIELD, TX	76063-7717
MANSFIELD, CITY OF	BLK 64 LOT 3R	MANSFIELD, CITY OF	1200 E BROAD ST	MANSFIELD, TX	76063-1805
MANSFIELD, CITY OF	BLK 12 LOT 4R	MANSFIELD, CITY OF	1200 E BROAD ST	MANSFIELD, TX	76063-1805
MANSFIELD, CITY OF	BLK 23 LOT 7	STEWART, JIMMIE	1005 SPRINGFIELD ST	MANSFIELD, TX	76063-2555
MANSFIELD, CITY OF	BLK 64 LOT 1	MANSFIELD, CITY OF	1200 E BROAD ST	MANSFIELD, TX	76063-1805
MANSFIELD, CITY OF	BLK 1 LTS 5A & 5B	WELCH, BRIAN C ETUX KIMBERLY	916 FAIRWAY VIEW DR	MANSFIELD, TX	76063-3469
MANSFIELD, CITY OF	BLK 1 LTS 5A & 5B	WELCH, BRIAN C ETUX KIMBERLY	916 FAIRWAY VIEW DR	MANSFIELD, TX	76063-3469
MANSFIELD, CITY OF	BLK 1 LTS 6 7A & 5D	MANSFIELD CHAMBER OF COMMERCE	114 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LTS 6 7A & 5D	MANSFIELD CHAMBER OF COMMERCE	114 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 1 LTS 8B & 9A	AUSTIN, JNO R	1503 TULIP DR	ARLINGTON, TX	76013-5036
MANSFIELD, CITY OF	BLK 1 LTS 8B & 9A	AUSTIN, JNO R	1503 TULIP DR	ARLINGTON, TX	76013-5036
MANSFIELD, CITY OF	BLK 12 LTS 11 & 12A	C & C BUINESSS PROPERTIES	5880 NEWT PATTERSON RD	MANSFIELD, TX	76063-6152
MANSFIELD, CITY OF	BLK 12 LTS 11 & 12A	C & C BUINESSS PROPERTIES	5880 NEWT PATTERSON RD	MANSFIELD, TX	76063-6152
MANSFIELD, CITY OF	BLK 12 LTS 5 & 7A	SHAFFER, ANNA Y	107 E BROAD ST	MANSFIELD, TX	76063-1774
MANSFIELD, CITY OF	BLK 12 LTS 7B & 8	ERNST REALTY INVESTMENT LLC	7 GLEN ABBEY CT	MANSFIELD, TX	76063-3851
MANSFIELD, CITY OF	BLK 12 LTS 7B & 8	ERNST REALTY INVESTMENT LLC	7 GLEN ABBEY CT	MANSFIELD, TX	76063-3851
MANSFIELD, CITY OF	BLK 12 LTS 9A & 10	KING, WESLEY C ETUX LINDA	PO BOX 1462	MANSFIELD, TX	76063-1462
MANSFIELD, CITY OF	BLK 12 LTS 9A & 10	KING, WESLEY C ETUX LINDA	PO BOX 1462	MANSFIELD, TX	76063-1462



# Property Owner Notification for HLC# 14-001 and ZC# 14-002

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
MANSFIELD, CITY OF	BLK 12 LTS 9B & 12B	KING, CORDELL EST	305 W OAK ST APT A	MANSFIELD, TX	76063-1646
MANSFIELD, CITY OF	BLK 12 LTS 9B & 12B	KING, CORDELL EST	305 W OAK ST APT A	MANSFIELD, TX	76063-1646
MANSFIELD, CITY OF	BLK 2 LOT 1B	DANG, LOI UNG ETUX LIEU THI LE	121 FORT EDWARD DR	ARLINGTON, TX	76002-4493
MANSFIELD, CITY OF	BLK 2 LOT 3B	PATTERSON, ROY ETUX BERTA	860 CARDINAL RD	MANSFIELD, TX	76063-6300
MANSFIELD, CITY OF	BLK 2 LOT 4A	119 N MAIN ST LLC	128 N MAIN ST	MANSFIELD, TX	76063-1724
MANSFIELD, CITY OF	BLK 2 LOT 4B & 5A	ARB FAMILY L P	14 RED BLUFF CT	MANSFIELD, TX	76063-7704
MANSFIELD, CITY OF	BLK 2 LOT 4B & 5A	ARB FAMILY L P	14 RED BLUFF CT	MANSFIELD, TX	76063-7704
MANSFIELD, CITY OF	BLK 2 LOT 7A	PATTERSON, JOHN E ETUX CANDY L	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 2 LOT 7A	PATTERSON, JOHN E ETUX CANDY L	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 2 LOTS 2B & 3A	RAMIREZ, MAURO Y	812 DORAL DR	MANSFIELD, TX	76063-2600
MANSFIELD, CITY OF	BLK 2 LOTS 2B & 3A	RAMIREZ, MAURO Y	812 DORAL DR	MANSFIELD, TX	76063-2600
MANSFIELD, CITY OF	BLK 2 LOTS 5B & 6A	DORSEY, TROY G ETUX LESLIE M	115 N MAIN ST	MANSFIELD, TX	76063-1723
MANSFIELD, CITY OF	BLK 2 LOTS 5B & 6A	DORSEY, TROY G ETUX LESLIE M	115 N MAIN ST	MANSFIELD, TX	76063-1723
MANSFIELD, CITY OF	BLK 23 LOTS 5A & 6A	KIRBY CONSOLIDATED LLC	300 W RANDOL MILL RD	ARLINGTON, TX	76011-5734
MANSFIELD, CITY OF	BLK 23 LOTS 5A & 6A	KIRBY CONSOLIDATED LLC	300 W RANDOL MILL RD	ARLINGTON, TX	76011-5734
MANSFIELD, CITY OF	BLK 23 LOTS 5B & 6B	PATTERSON, JOHN E ETUX CANDY	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 23 LOTS 5B & 6B	PATTERSON, JOHN E ETUX CANDY	790 NEWT PATTERSON RD	MANSFIELD, TX	76063-6326
MANSFIELD, CITY OF	BLK 3 LOTS 7C 8 9 10 11 &	OPEN RANGE PROPERTIES	105 E OAK ST STE 202	MANSFIELD, TX	76063-7713
MANSFIELD, CITY OF	BLK 3 LTS 5B & 6A	LOMA, MARIA D & F MAGUELLAL	102 N 1ST AVE	MANSFIELD, TX	76063-1602

Property Owner Notification for HLC# 14-001 and ZC# 14-002

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
MANSFIELD, CITY OF	BLK 3 LTS 5B & 6A	LOMA, MARIA D & F MAGUELLAL	102 N 1ST AVE	MANSFIELD, TX	76063-1602
MANSFIELD, CITY OF	BLK 3 LTS 6A1 & 7B	CRUZ, MIGUEL ANGEL	104 N 1ST AVE	MANSFIELD, TX	76063-1602
MANSFIELD, CITY OF	BLK 3 LTS 6A1 & 7B	CRUZ, MIGUEL ANGEL	104 N 1ST AVE	MANSFIELD, TX	76063-1602
MANSFIELD, CITY OF	BLK 3 LTS 7A1 6B & 7A2	MANSFIELD, CITY OF	1200 E BROAD ST	MANSFIELD, TX	76063-1805



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0818

Agenda Date: 3/24/2014

Version: 3

Status: Third and Final  
Reading

In Control: City Council

File Type: Ordinance

### Agenda Number:

#### Title

Ordinance - Third and Final Reading on an Ordinance Approving Amendment of Section 7100.D of the Zoning Ordinance Pertaining to Regulations on Window Signs (OA#14-001)

#### Requested Action

To consider the subject zoning change request.

#### Recommendation

The Planning and Zoning Commission held a public hearing on February 3, 2014, and voted 7 to 0 to recommend approval.

#### Description/History

**Second Reading** - The following changes have been made since first reading:

- Exempt churches, schools and government entities from the message center criteria. These non-profit organizations tend to use more scrolling messages to convey worship or event schedules. Most businesses that use this type of signs tend to change the entire image.
  - Prohibit electronic message signage to be used as wall signs. Electronic message boards are used primarily on monument signs. They could be quite distracting or ignoring to other customers or tenants if used by an individual tenant of a retail strip center.
- Staff recommends staying with the time limit shown in the original proposal. A 20 second minimum display time period would create less distraction to drivers and allow a full message or image to be easily read.

**First Reading** - During the last quarter, the Council Code Enforcement Sub-Committee reviewed regulations on window signs. The input from businesses and other cities indicated that the current regulations represent an industry standard (maximum signage at 25% of the total window area). One area of improvement is to minimize the signs on doors. The Sub-Committee then directed staff to amend the regulations to exclude signage on glass doors, except for the business name, hours of operation, and the method of payment. Currently, the sign regulations do not address message centers in great detail. Staff has been receiving complaints about these types of signs specifically related to the speed at which the copy changes. After consulting with Baker Signs, who manages the City's kiosk sign program, staff is proposing an amendment to restrict the speed by which copy can change and to increase the amount of time copy must remain still. The end result is that businesses will be able to display their messages, while not create a distraction.

#### Prepared By

Felix Wong, Director of Planning  
817-276-4228

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AS HERETOFORE AMENDED BY AMENDING SECTION 7100D OF THE SIGN STANDARDS OF THE ZONING ORDINANCE PERTAINING TO WINDOW SIGNS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of the Comprehensive Zoning Ordinance of the City of Mansfield, Texas (hereinafter “the Zoning Ordinance”), have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all interested citizens, the governing body of the City is of the opinion and finds that the Comprehensive Zoning Ordinance should be amended;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS THAT:**

**SECTION 1.**

That Section 7100.D of the Zoning Ordinance is hereby amended by revising Note 12 on Table 1, “Schedule of Sign Standards,” to read as follows:

“(12) The total sign area of window sign(s) shall not obscure more than twenty-five (25) percent of the total window area on each façade. Doors shall not contain signage for any message other than business name, hours of operation and payment method, and such signage shall not exceed four (4) square feet in total area.”

**SECTION 2.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

#### **SECTION 4.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

#### **SECTION 5.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**DULY PASSED** on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
**David L. Cook, Mayor**

ATTEST:

\_\_\_\_\_  
**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
**Allen Taylor, City Attorney**



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0822

Agenda Date: 3/24/2014

Version: 3

Status: Third and Final  
Reading

In Control: City Council

File Type: Ordinance

### Title

Ordinance - Third and Final Reading of an Ordinance Amending the Regulations in Chapter 114 of the Mansfield Code of Ordinances, "Gas Well Drilling and Production", Pertaining to Noise, Hours of Operation, Notification, and Other Drilling, Operation, and Production Activities (OA#14-002)

### Requested Action

To consider the subject proposed ordinance amendments.

### Recommendation

Staff recommends approval

### Description/History

**Second Reading** - Based on further research and comments from gas well operators (attached), Staff has revised the proposed amendments as summarized below.

1. The requirement that a gas well operator to send notice to dwellings within 1,000 feet prior to drilling operations has been revised to clarify which activities require notice (i.e. site construction or preparation, mobilization or demobilization of drilling equipment, drilling, fracturing, flowback, reworking, plugging and abandoning a well). Routine maintenance at the site will not require notice. Separate notices shall be required if an activity does not occur within ninety (90) day of the last activity on the Drill Site or Operation Site (e.g. if fracturing occurs 3 or 4 months after drilling.)
2. The requirement for use of only electricity from the utility company to power drilling rigs has been revised to:
  - a) reduce the distance to protected uses from 1,500 feet to 1,000 feet (see attached map depicting drilling sites within 1,000' of protect uses);
  - b) allow alternative power source such as temporary diesel generators during a power failure; and
  - c) allow a request for relief under the existing variance procedure should an operator's circumstances warrant special consideration.
  - d) add permanent lift compressors to be run only by electric power.

No change on the other proposed amendments regarding the prohibition of fracturing on Sundays and the online access of noise monitoring data.

The attached presentation and report regarding drilling rig electrification were downloaded from the website of the American Association of Drilling Engineers. They provided an analysis of benefits (reduced noise and emissions, cost savings) and disadvantages (initial equipment purchase and equipment installation on site).

**First Reading** - The proposed amendments, as summarized below, will provide for better public information and enforcement, reducing any potential negative impact of gas well operations on nearby properties.

1. Require the gas well operator to send notice to dwellings within 1,000 feet prior to drilling operations. The notice would describe the activities and the estimated time to



- complete, as well as contact information for the operator, TCEQ, and the Railroad Commission.
2. Require the gas well operator to provide real-time, Internet access to the monitoring equipment at drill sites that are required to have 24-hour sound monitoring. This will allow the Gas Well Inspector to respond more quickly to noise complaints and better track violations.
  3. Prohibit fracking on Sundays.
  4. Require the use of electric rigs connected to the electric delivery system through a ground-mounted transformer unless the drill site is more than 1,500 feet from protected uses or the electric utility company reports that there is insufficient capacity to serve the drilling. This will reduce noise and fumes created by diesel-driven equipment.

**Prepared By**

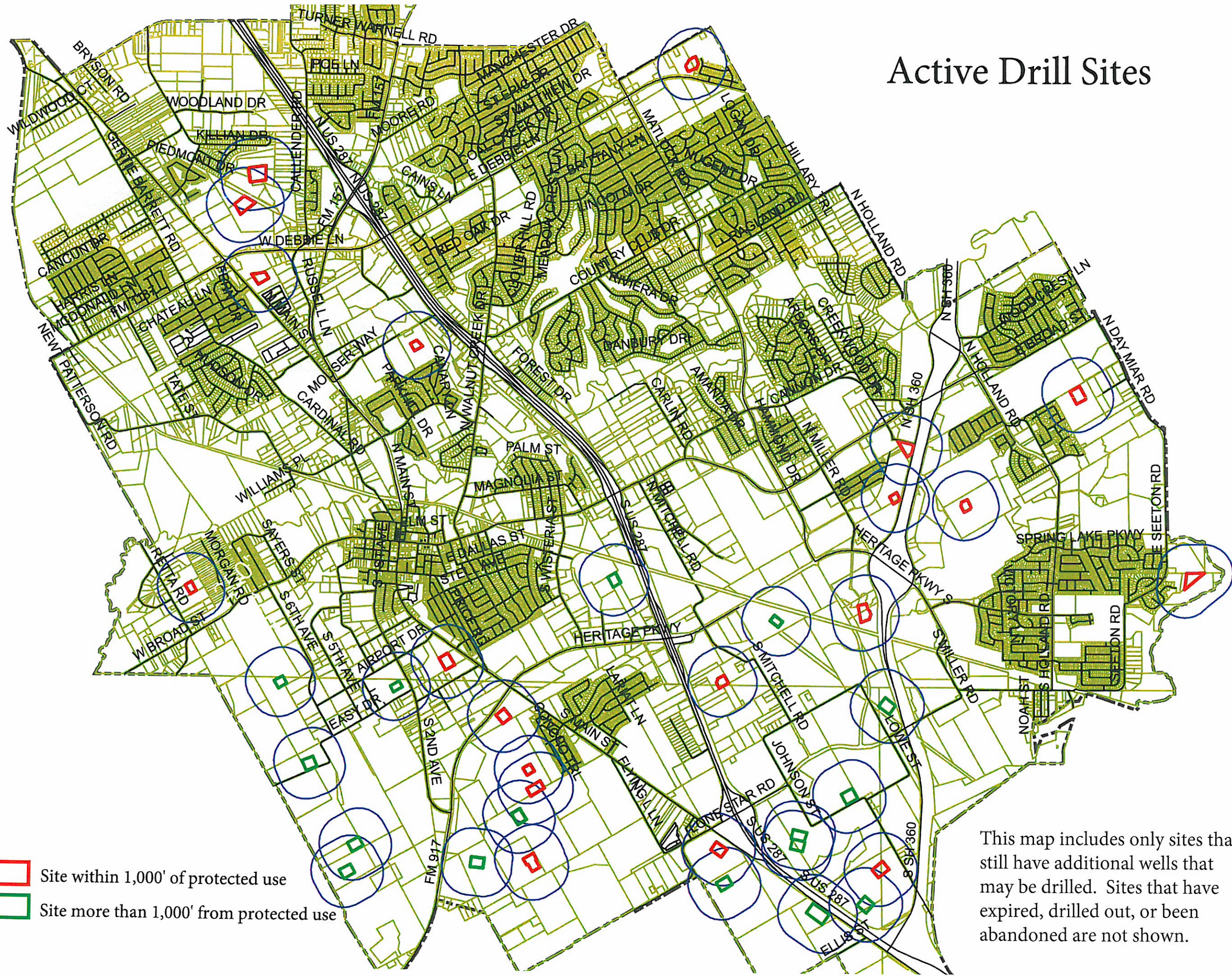
Felix Wong, Director of Planning  
817-276-4228



# Active Drill Sites

-  Site within 1,000' of protected use
-  Site more than 1,000' from protected use

This map includes only sites that still have additional wells that may be drilled. Sites that have expired, drilled out, or been abandoned are not shown.





# Drilling Rig Electrification – Barnett and Beyond

## AADE Technical Symposium, 2012



By: Ryan Stricklin - Drilling Engineer, Barnett Shale

# Presentation Outline:

## ● Electric Drilling Project

- Project Overview
- Rig Fleet / Equipment
- Current Progress
- Economic Summary

# Rig Electrification Overview

- **Originated at DFW Airport in 2007, expanded into entire Barnett district in 2009**

- Use of mobile transformer skids to run diesel-electric rigs on grid power
- 7 transformer skids available in the Barnett (owned by Great Plains, Chesapeake Subsidiary)
- Contracting electrical engineering/consulting through Rapid Power Management; Dallas, TX
- 12 rigs in the Barnett fully capable of utilizing transformer skids
  - Nomac 20 series, Nomac 140 series (Formerly Mountain), Trinidad 110,111, 129 and 130.
- Ideal for pad drilling or an area with power grid in place and nearby
  - Each pad incurs a cost for engineering, layout design, equipment installation, Right of Way, and electrical hookup.

# Benefits of Electricity for Drilling Rigs



- Eliminates Drilling Rig Emissions

- CO2 Emissions

- (4.2 Tons per Rig per Day) reduced to +/- 0

- Nox (Nitrogen Oxides)

- 55 TPY (4.6 Tons per Well) reduced to +/- 0 TPY (Tons per year)

- VOC (Volatile Organic Compounds)

- 2.5 TPY (0.2 Tons per Well) reduced to +/- 0 TPY

- Eliminates Drilling Rig Noise

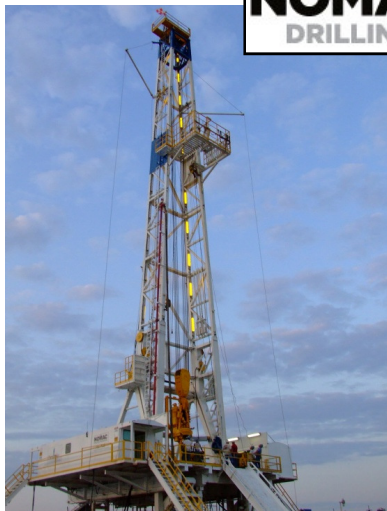
- 75 dB reduced to +/- 0 dB

- Economic Benefits: (Saves +/- \$43,000 per well depending on diesel prices)





# Electric Drilling Fleet



**Nomac Drilling**  
National 610 Drilling Rigs  
Derrick Height: 170'  
750 HP  
Fuel Usage: 1500 GPD  
Electric Power: 1500 kilowatts  
Voltage: 600 Volts



**Nomac 140 Series**  
Drillmec HH-220 Drilling Rigs  
Derrick Height: 100'  
1500 HP  
Fuel Usage: 2015 GPD  
Electric Power: 2200 kilowatts  
Voltage: 600 Volts

## Trinidad Drilling

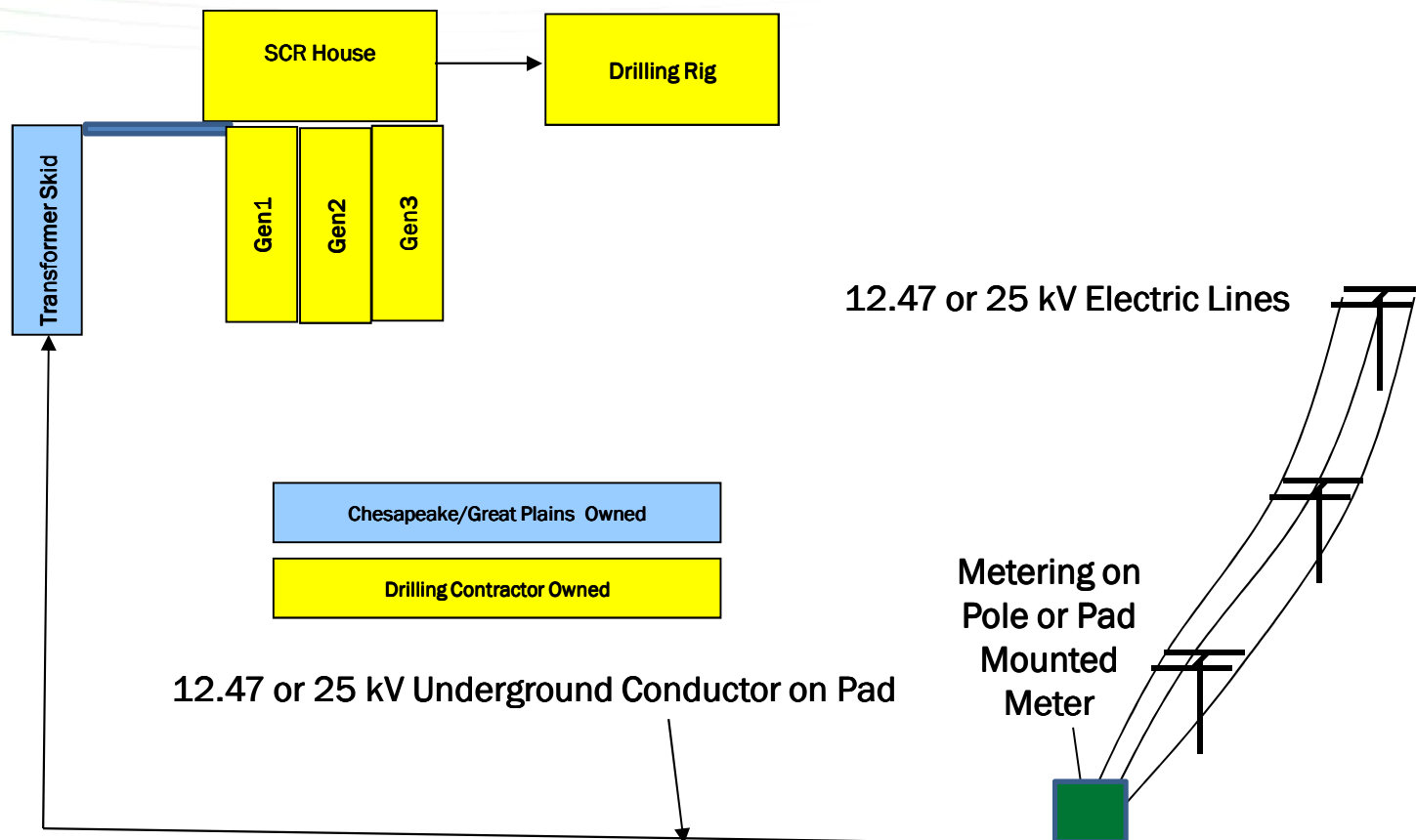
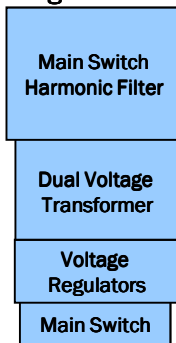
Victory 1500 AC Drilling Rigs  
Derrick Height: 142'  
1,500 HP  
Fuel Usage: 1800 - 2200 GPD  
Electric Power: 1500 kilowatts  
Voltage: 600 Volts



# Site Layout with Current Equipment



## Transformer Skid Components – Single Platform



# Electrical Skid Design Improvement



**June 2008**



- 4.16 kV to 600 Volt
- 2500 kVA Transformer
- 525 kVAr Harmonic Filter

**March 2009**



- 12.5 or 25 kV to 600V
- 3750 kVA Transformer
- 1000 kVAr Harmonic Filter



# Electrical Skid – Closer Look



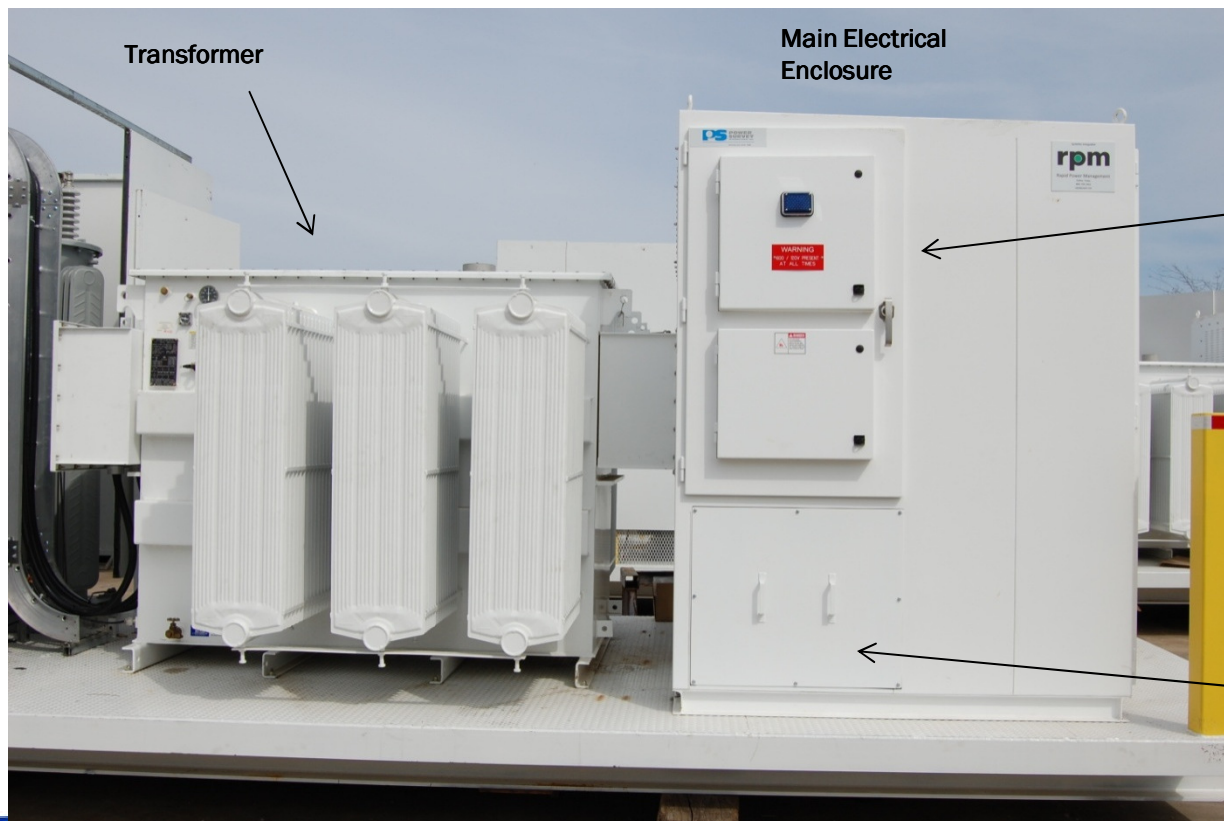


# Transformer and Capacitor Bank / Harmonic Filter



- Transforms 12.47 or 24.9 kV to 600V for Rig Power
- Mitigates rig power distortion on utility network
- Provides Main 600 V Disconnect for Rig.

Main 600 V Electric Disconnect  
(behind panel) door



Transformer

Main Electrical  
Enclosure



# Project Evolution



- From 1 padsite outside DFW Airport in 2009 to 102 padsites as of December, 2011
- 56 padsites 100% ready; 46 padsites in progress
- 850 wells planned to be drilled on electricity
- 79 wells drilled on electricity to date (30 padsites) – 1,396 drilling days
- Rig capability taken from 6 rigs to 12

# Economic Summary



## Diesel Fuel Savings

Engineering, Installation, Right of Way, Hook-Up Cost (per well)	\$34,000
Average Cost of Electricity (13,108 kWh/day)	\$14,160
Average Cost of Drilling Well on Electricity	\$48,160
Average Cost of Drilling Well on Diesel (1,730 gal/day @ \$3.50 per gal)	\$90,825
Net Savings of Drilling Well on Electricity	\$ 42,665
Total Savings of Wells Drilled on Electricity to date (excluding DFW) (79 wells)	<u>\$3,370,535</u>

Estimated Savings for 21 of the pads we've drilled on:  
\$8,618,330 (202 wells)





# GM Pad Economics (Barnett)



## Diesel Fuel Savings (Single Pad)

Construction, Hookup/Disconnect, Engr . (Per well)	\$8,130
Transformer skid rental - Great Plains (\$1000/day)	\$15,000
Average Cost of Electricity (13,108 kWh/day)	\$12,765
<hr/>	
<b>Average Cost of Drilling Well on Electricity (15 days)</b>	<b>\$35,895</b>
 Average Cost of Drilling Well on Diesel (Nomac 29 – 1,500 gal/day @ \$3.50 per gal)	 \$78,750
 <b>Net Savings of Drilling Well on Electricity</b>	 <b>\$42,855</b>
<b>Total Savings of Wells Drilled on GM Pad w/ Electricity (15 wells)</b>	<b><u>\$642,825</u></b>



# Future Plans



- **Continue to bring electricity to padsites that are ideal:**
  - High Impact
  - >7 wells on the pad
  - Grid Power readily available
  - Economical installation
- **Better optimize drilling schedule to keep all 7 skids running**
- **Complete installation on enough padsites to completely fill all rig lines that have electrical capability**
- **Possible expansion into other areas**





# Questions?





2009 NATIONAL TECHNICAL CONFERENCE & EXHIBITION,  
NEW ORLEANS, LOUISIANA

## AADE 2009NTCE-01-01 CHESAPEAKE ENERGY'S DRILLING RIG ELECTRICITY PROJECT AT DALLAS/FORT WORTH AIRPORT

### AUTHOR & AFFILIATIONS:

KURT A. SHIPLEY, CHESAPEAKE ENERGY

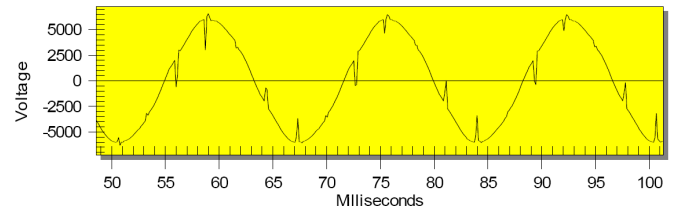
In October, 2006, Chesapeake Energy entered an agreement with Dallas/Fort Worth (DFW) Airport. DFW Airport is the second largest and the third busiest airport in the United States and is located in north Texas in the Barnett shale field. The area of the airport that covers 18,453 acres is planned for approximately 330 horizontal Barnett shale wells drilled from 53 pad sites. As of March, 2009 there have been 110 horizontal wells drilled. There can be as many as 1900 flights per day at DFW Airport so there are many special considerations, some that are governed by the Federal Aviation Administration (FAA) that must be addressed when drilling wells. Some of the special considerations include, safety, security, drilling rig heights in restricted airspace areas, derrick lighting, radar interference, environmental protection and drilling rig emissions. The drilling rig emissions restriction was particularly challenging because it limited the time that drilling rigs could be operated on diesel fuel.

Chesapeake's solution to the emissions limits was to convert the five drilling rigs that were dedicated to the project to all electric power connected to the DFW Airport electricity grid. Drilling rig electrification is not new, it is actually done quite frequently, but this project does have some unique characteristics such as capacitor bank installations to reduce voltage distortion, power factor considerations and electrical equipment sharing with production facilities while utilizing five drilling rigs on electricity simultaneously. There are many benefits to converting the drilling rigs to all electric power including the additional benefit of the tremendous cost savings of electric power when compared to higher diesel fuel costs.

The primary reason that the drilling rigs were converted to all electric power was due to the environmental regulations that were intended to limit drilling rig engine emissions. The emissions that are the highest concern are NOX (nitrogen oxides) and VOC (Volatile Organic Compounds) produced from the exhaust of the diesel electric generators. The FAA and the National Environmental Protection Act regulate the allowable levels of emissions for a project of this type. It would not have been possible to maintain this drilling program and comply with the FAA's limitations without converting the drilling rigs to electricity.

Many hurdles had to be overcome in order to convert the drilling rigs to electricity. The logistics of installing high line power poles, designing mobile transformers and coordination with the electric utility company made the project extremely difficult. In addition, the electric utility

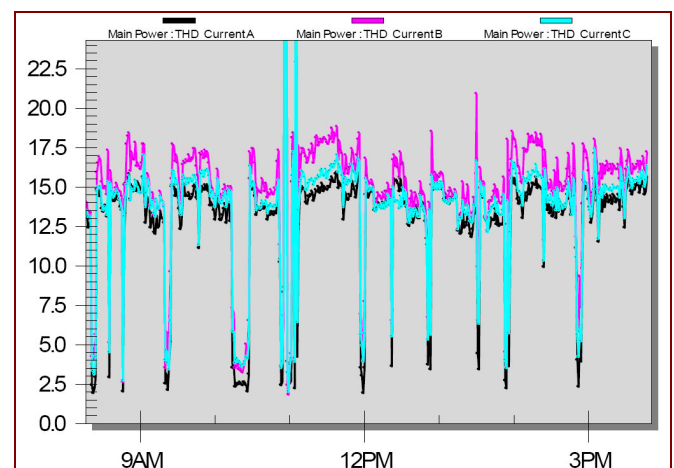
company required compliance with IEEE-519 (Institute for Electrical and Electronic Engineering) Standard. The IEEE-519 Standard regulates voltage distortion in electricity service. Voltage distortion can consist of two types of distortion, voltage harmonics and voltage notching. Alternating current voltage, when graphed, has a very sinusoidal shape. When voltage notching occurs due to voltage harmonics, there are interruptions in the sine wave shown in Figure 1.



**Figure 1. Example of Voltage Notching**

The interruptions in voltage due to voltage notching and voltage harmonics can cause disruptions in electrical currents and affect electrical devices. Voltage distortion produced at one location can affect other users on the power grid. The electric utility company and DFW Airport personnel were particularly concerned with voltage distortion because it can disrupt and cause damage to electronics such as computers and radar. This was an unacceptable hazard for the operations at DFW Airport and voltage distortion had to be controlled and monitored.

Chesapeake Energy worked closely with Nomac Drilling and the electric utility company (TXU Energy) to design electrical equipment and a system to run all five drilling rigs on electricity simultaneously. An additional company, Rapid Power Management of Dallas, Texas was added to the team to provide engineering design and fabrication of equipment to mitigate voltage harmonics. Total Harmonic Distortion (THD) was measured at various places on the drilling rig, prior to installing capacitor banks. Figure 2 shows the measurements of the Total Harmonic Distortion at three positions A, B, and C on the drilling rig.



**Figure 2. Measurement of Total Harmonic Distortion (THD) in Position A, B and C in Percentage of Current**

The maximum Total Harmonic Distortion was 17.5% prior to installing the capacitor banks. In order to reduce harmonics, Rapid Power

Management designed mobile capacitor banks to be used with the electrical equipment on the drilling rigs. Two sizes of capacitor banks were designed for the different sized drilling rigs. There is a significant cost difference in the 500 KVAR and 1000 KVAR capacitor banks so they were designed according to the maximum required load for each drilling rig. The capacitor banks were successful in eliminating the voltage notching and reducing total voltage harmonics from 17.0% to 3.0%. This reduction in voltage distortion allowed for compliance with the IEEE-519 Standard.

An additional benefit that is achieved when installing capacitors to an electrical system is an improvement in the power factor of the electric power system. Power factor of an AC (alternating current) power system is the ratio of the real power compared to the apparent power. Real power is the capacity of the electric circuit. Apparent power is the actual power used in the system. Power Factor is expressed as a percentage, for example Power Factor = 95%. Electric utilities often charge a penalty on their electricity bills when electric power systems have a low power factor. Adding capacitors to the electric power system have the additional benefit of improving the power factor and thus lowering the electric utility bill.

The remaining electrical equipment was designed based on the available electricity capacity at DFW Airport and compliance with various electrical codes in the north Texas area and at DFW Airport. The drilling rigs require 600 volts of electricity to operate. Two types of drilling rigs have been primarily used at DFW Airport. These two types of drilling rigs are provided by Nomac Drilling and Mountain Drilling. The Nomac Drilling rigs are National 610 drilling rigs with 750 horsepower. These drilling rigs require 1500 kilowatts of electric power. The Mountain Drilling rigs are Drillmec HH-220 drilling rigs with 1500 horsepower. These drilling rigs require 2200 kilowatts of electric power. The electrical equipment was designed to be mobile and travel with the drilling rig so it was all mounted on transportable skids. The electricity grid at DFW Airport is designed with 25,000 volts. Transformers were designed and fabricated to convert the electricity from 25,000 volts to 600 volts. Voltage regulators were designed and fabricated to maintain the voltage constant at 600 volts. The equipment is wired together by licensed electricians at each well location. The electricity from the power lines allows for by-passing the diesel electric generators on the drilling rig and delivering the electricity into the drilling rig's SCR (silicon controlled rectifier) house.

Many advantages have been realized by converting the drilling rigs to electricity. The benefits include eliminating drilling rig emissions, reducing drilling rig noise and economic benefits. In many cases it has been identified that the drilling rig actually runs more efficiently on high line electric power. There is also less wear and maintenance that is required on the diesel generators because they are rarely being utilized.

The economic benefit to using high line electric power has been significant. When diesel prices reached \$4.00 per gallon in the summer of 2008, Chesapeake was realizing a savings between \$60,000 and \$100,000 for a 25 day well depending on the drilling rig involved. The National 610 drilling rigs average 1600 gallons per day of diesel fuel usage and the Drillmec HH-220 drilling rigs average 2200 gallons of diesel fuel usage each day. The purchase of diesel fuel is virtually eliminated for the drilling rigs running on electricity. The drilling rig does, however, use a large amount of electric power and there is a cost

involved. Each pad site also requires an electrical equipment installation and the cost can be quite expensive. It has, however, proven to be far more economic to operate drilling rigs on electricity than on diesel fuel. An economic sensitivity model has been generated to estimate the cost savings at various prices of each commodity. Summarizing this model, there is a savings of \$60,000 at \$4.00 per gallon diesel, \$35,000 at \$3.00 and \$20,000 at \$2.00 for the smaller horsepower drilling rigs. There is a savings of \$100,000 at \$4.00 per gallon diesel, \$58,000 at \$3.00 and \$33,000 at \$2.00 for the larger horsepower drilling rigs.

There have also been many disadvantages that have been identified from converting drilling rigs to electricity. The primary disadvantage is that the logistics are extremely difficult. It is very difficult to coordinate the electrical equipment movements with the drilling rig schedule. It is also difficult to work with the scheduling and service order requirements of the electric utility companies. All electric work has to be approved by electrical inspectors before equipment can be energized. Another disadvantage is the fact that electricity is not always available at all locations. Furthermore, when electricity is available, the utility company may not be willing or have the excess electrical power available to sell for drilling rig use. Another disadvantage is that the equipment requires an expensive equipment purchase. Finally, there can be disruptions in the electrical power due to equipment failure, black outs and weather storms so the drilling rig must have an alternative source of electric power such as the diesel electric generators.

Converting the five drilling rigs at DFW Airport has been an outstanding success. There have been minimal interruptions in power and when it does happen it has only been for a short period of time. The operation, overall, has been efficient due to great teamwork. There have, however, been some notable areas that could be improved. The main improvement that has been identified is attempting to reduce as much interaction with the utility company as possible. This can be accomplished with the fabrication of the proper equipment. Also, the entire operation could be improved by combining all equipment on one mobile skid, if possible. Finally, the system at DFW Airport was designed to receive one voltage on the receiving end of the electrical equipment at 25,000 volts. Voltages for power grids change from place to place and in order to use this electrical equipment off of DFW Airport it would have to be modified. Chesapeake Energy, Nomac Drilling, and Rapid Power Management held several design sessions to create a new and improved design for the electrical equipment. The result was a design of a multiple voltage electrical skid containing safety disconnect switches, voltage regulators and capacitor banks. This equipment was assembled by Rapid Power Management and is truly unique. The multiple voltage electrical unit has the ability to connect to any voltage from the electric utility lines on one end and any diesel electric drilling rig on the other end. This unit is flexible, fully mobile, eliminates drilling rig emissions, reduces drilling rig noise and lowers drilling cost by operating on electricity instead of diesel fuel.

In summary, Chesapeake Energy began a large drilling project in the Barnett shale at DFW Airport in 2006. One of the requirements of the drilling program was to reduce drilling rig exhaust emissions. Chesapeake Energy's solution to this was to operate the five drilling rigs on all electric power. Further complicating this project was the standard from the electric utility company and DFW Airport to control voltage distortion. The electric equipment was designed and fabricated. The voltage distortion caused by the electric power system was

mitigated by the installation of capacitor banks. The project has been very successful and allowed for drilling to continue at DFW Airport in compliance with the regulations from the FAA. The original reason for converting the drilling rigs from diesel fuel to electricity was to reduce engine exhaust emissions at DFW Airport but Chesapeake Energy has received the added benefit of a significant cost savings from operating the drilling rigs on electricity.





March 5, 2014

Mr. Art Wright  
City of Mansfield  
1200 E. Broad Street  
Mansfield, Texas 76063

**Re: Proposed Amendments to Mansfield's Drilling Regulations**

Dear Mr. Wright:

XTO Energy has read with interest the proposed amendments to Chapter 114 of the Mansfield Code of Ordinances, "Gas Well Drilling and Production". XTO supports reasonable regulations for municipal drilling, completion and production activities and respects the intent of ordinances to protect the health, safety and welfare of the residents.

XTO Energy provides the following substantive comments to the City for your consideration in amending this important Code.

**Section 114.12 (1) (a) – (f)** – We support the recommendation to change notification of wellsite operations from 72 hours to 48 hours before activities commence. This allows operators a minimum of production down time and economic loss.

**Section 114.12 (2)** – XTO believes this paragraph requires an operator to post a ten (10) day notice prior to the commencement "of any work on the drillsite." This stipulation appears to unreasonably include routine wellsite activity that is performed during daylight hours Monday through Saturday and well within the permissible decibel limits of the noise ordinance. We believe this section should be clarified to notify all residents within one thousand (1000') of the drillsite of pending drilling, re-working with a drilling rig, completion or plugging operations only and not apply to routine maintenance operations for the wellbore or wellsite.

**Section 114.13 (D)** – XTO supports the proposed amendments to the hours of operations for workover and fracture stimulation activities.

**Section 114.13 (D)** – XTO supports the proposed amendments to allow Internet access by the City's inspectors for gathering real-time continuous noise monitoring data.

**Section 114.13 (B)** – XTO strongly disagrees with the proposal to only use electric motors for drilling operations. This stipulation would apply to virtually all drillsites within the City of Mansfield and becomes a wholesale change in an operator's ability to select the best means of powering the systems on our rig fleet. This proposal also has farther reaching implications in suggesting that all wellsite activities be converted to electric power. We believe that using a power substation has more potential

to interfere with the lives of the public than the drone of diesel electric engines. Electric transformers are specialized and must be unique for each power supply and sized appropriately for each drilling operation. All transformers must be equipped with voltage attenuators which would keep rig power surges from coursing back through the power supply and into the surrounding neighborhood grid with excess voltage. In the event the substation lost power or could not supply the rig with power we would have to switch directly over to diesel power to conduct operations. The normal start-up time for generators is 20 minutes which we could not afford from a well control standpoint. XTO currently operates Dual Fuel systems on our rigs to lower our emissions during drilling operations. This system uses natural gas in our lean burn engines and lessens our emission footprint in the Metroplex.

We urge the Council to reconsider the requirement to notify all residents within one thousand (1000') within 10 days of all wellsite activity. XTO also asks for additional consideration to not require only electric power on drilling operations. We support a stronger commitment by industry to mitigate urban drilling impacts and better compliance with current gas well ordinances through proven community relations, responsible hours of operation and effective nuisance noise mitigation.

Yours truly,

Walter Dueease

## Art Wright

---

**From:** Clifford, Judith  
**Sent:** Thursday, March 06, 2014 11:15 AM  
**To:** Art Wright <art.wright@mansfield-tx.gov> (art.wright@mansfield-tx.gov)  
**Cc:** Leopold, Dave; Suszkowski, Carla; Walker, Christopher; Greathouse, Dana; Clifford, Judith  
**Subject:** Notice of Proposed Amendments to Mansfield's Drilling Regulations - Atlas Comments

Art,

Thank you for the opportunity to comment on Mansfield's proposed drilling regulations amendments, said comments to be included in the Council meeting packet. Our comments are set out below:

1. Require gas well operator to send notice to dwellings within 1,000 feet prior to drilling operations. The notice would describe the activities and the estimated time to complete, as well as contact information for the operator, TCEQ, and the Railroad Commission.

**Comment:** Notice to the City, which can be displayed on the City's website, should suffice. The proposed requirement would place an undue burden on the Operator and can be accomplished much more efficiently by City website posting.

2. Require gas well operator to provide real-time, Internet access to the monitoring equipment at drill sites that are required to have 24-hour sound monitoring. This will allow the Gas Well Inspector to respond more quickly to noise complaints and better track violations.

**Comment:** Agreed

3. Prohibit fracking on Sundays.

**Comment:** Agreed

4. Require the use of electric motors connected to the electric delivery system through a ground-mounted transformer for drilling operations, unless the drill site is more than 1,500 feet from protected uses or the electric utility provider certifies that there is insufficient capacity to serve the drill site.

**Comment:** Operators cannot guarantee access to an electric drive rig. Smaller Operators would be significantly and adversely impacted by this requirement.

Let me know if you have any questions or would like to discuss.

**Judith R. Clifford**  
Manager, Regulatory Compliance



425 Houston Street, Suite 300  
Fort Worth, TX 76102  
Direct: 817.439.7565  
Cell: 817.319.3768  
Fax: 817.698.8343  
Email: [jclifford@atlasenergy.com](mailto:jclifford@atlasenergy.com)

Gas Well Ordinance Amendments  
Beacon E&P Company, LLC. Comments  
March 6, 2014

---

1. Require gas well operator to send notice to dwellings within 1,000 feet prior to drilling operations. The notice would describe the activities and the estimated time to complete, as well as contact information for the operator, TCEQ, and the Railroad Commission.

*Comments: Beacon has been proactive in our neighbor relations and supports this initiative.*

2. Require gas well operator to provide real-time, Internet access to the monitoring equipment at drill sites that are required to have 24-hour sound monitoring. This will allow the Gas Well Inspector to respond more quickly to noise complaints and better track violations.

*Comments: Beacon's noise consultants have this capability. The City might consider a short grace period to assure equipment conversion time is available to all operators. An outer limit might be considered for complaints outside of 600 feet.*

3. Prohibit fracking on Sundays.

*Comments: While Beacon's objective is always to minimize the time on location spent fracturing, other techniques such as simultaneous operations utilizing two frac fleets are available and preferable to Sunday operations.*

4. Require the use of electric motors connected to the electric delivery system through a ground-mounted transformer for drilling operations, unless the drill site is more than 1,500 feet from protected uses or the electric utility provider certifies that there is insufficient capacity to serve the drill site.

*Comments: The feasibility, planning, and construction of required infrastructure inherently encompasses long lead times. For any existing SUP, Beacon E&P would recommend making this provision of the ordinance effective 3 months after its adoption. A reasonable compliance period would allow the industry time to plan and execute the conversions with the electric delivery company.*

*Consideration might also be made in the ordinance provisions for inordinately long distances or difficult installations, where an economic breakeven is unlikely.*



## Art Wright

---

**From:** T. Brown  
**Sent:** Thursday, March 06, 2014 4:08 PM  
**To:** Art Wright (External)  
**Cc:** Ellen Pierce  
**Subject:** RE: Notice of Proposed Amendments to Mansfield's Drilling Regulations

Hello Art,

Thank you for the opportunity to provide comments on the proposed ordinance amendments. Per our conversation this morning, please see our comments below:

Concerning the amendments to Section 114.12, paragraph (V), we do have some concern over the language added under (f) "perform any other maintenance at a Drill Site or Operation Site." We believe that this language may prove to be too vague and have unintended consequences. As currently written it could be argued that mowing the grass or even daily site checks could fall under the description and require city and resident notifications.

For the addition of a new paragraph (B) under Section 114.13, we would like consideration included in the language for an occasion where there may be sufficient capacity to serve the drillsite, however the ability to access the necessary utility easements is not feasible.

Please feel free to contact me if you have any questions or concerns.

Thank you,  
*T. Brown*  
Sr. Regulatory Analyst  
Chesapeake Energy Corporation  
Office: 817-502-5638  
Mobile: 817-718-3903  
Fax: 817-945-5638  
Email: [t.brown@chk.com](mailto:t.brown@chk.com)



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## Art Wright

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**From:** Thomas, Lee  
**Sent:** Thursday, March 06, 2014 5:01 PM  
**To:** art.wright@mansfield-tx.gov  
**Cc:** Fry, Pamela; Young, Ronnie; Trueheart, Richard; Eckhardt, Todd  
**Subject:** RE: Notice of Proposed Amendments to Mansfield's Drilling Regulations

Mr. Wright,

Comments on Section 4 (B):

If the noise mitigation is implemented to meet the required specifications, we would prefer not to be required to use only electric motors. The engines that we use accomplish our objectives in a safe and reliable manner. The engines provide redundant power and back up that would not be available with a utility only situation. Utility companies can experience power outages that will render the drilling rig inoperable for a period of time. This will increase the risk of drilling problems extending the time the rig had stay on the site and limits our reaction to downhole conditions.

We respectfully ask that this restriction not be approved.

Sincerely,

Lee Thomas  
EnerVest Operating  
VP Drilling & Completions - Western Assets  
Office: 713.495.1502  
Cell: 281.513.5673

---

**From:** Fry, Pamela  
**Sent:** Wednesday, March 05, 2014 4:22 PM  
**To:** Welton, Bill; Zazzi, Alex; Saucedo, Carlos  
**Cc:** Thomas, Lee  
**Subject:** FW: Notice of Proposed Amendments to Mansfield's Drilling Regulations

Touched base with Lee on this today.

If there are any comments, Art Wright mentioned that he will take them up until 5pm tomorrow.

Thanks very much,  
Pam

*Pamela Fry*  
EnerVest Operating, LLC  
Regulatory Compliance  
1001 Fannin St., Ste 800  
Houston, TX 77002  
713-495-1563 - direct

---

**From:** Art Wright [<mailto:art.wright@mansfield-tx.gov>]  
**Sent:** Wednesday, March 05, 2014 3:24 PM

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 114 OF THE MANSFIELD CODE OF ORDINANCES, "GAS WELL DRILLING AND PRODUCTION," PERTAINING TO NOISE, HOURS OF OPERATION, NOTIFICATION, AND OTHER DRILLING, OPERATION, AND PRODUCTION ACTIVITIES; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL OTHER ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Mansfield, Texas ("City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council finds that the regulation of the development of gas and other hydrocarbon substances within and under the City is necessary in order to protect the surface property rights, to protect the owners of mineral rights and to provide for the orderly exploration, development, and production of gas and hydrocarbons; and

**WHEREAS**, on August 11, 2008, the City Council adopted Ordinance Number 1704-08, regulating gas drilling within the city limits of Mansfield; and

**WHEREAS**, the City Council deems it advisable to amend the current regulations for the drilling, production and re-drilling of gas so that these activities may be conducted in a manner that protects the public health, safety and welfare of the citizens of Mansfield, conforms with established codes and regulations while minimizing the potential impact of surface property and mineral rights owners; and

**WHEREAS**, the City Council finds and declares that the regulations contained herein are in the best interest of the public health, safety and general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:**

**SECTION 1.**

That Section 114.12 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Paragraph (V) to read as follows:

“(V) The operator shall provide notice as follows:

(1) Any Operator who intends to perform the following activities shall give written notice to the designated City official and the Gas Well Inspector at least forty-eight (48) hours before the activities begin:

(a) drill a well, including site construction and/or preparation; mobilization and demobilization of drilling equipment, and operations related to advancing the wellbore such as spudding, setting surface casing, and cementing;

(b) re-work a well using a drilling rig;

(c) fracture stimulate a well;

(d) perform flow back operations;

(e) plug a well; or

(f) perform any other maintenance at a Drill Site or Operation Site.

(2) An Operator shall send notice, in a form acceptable to the City, to the occupants of all dwellings within one thousand (1,000) feet of a Drill Site or Operation Site in accordance with the following provisions:

(a) Notice shall be sent at least ten (10) days prior to the commencement of any of the following activities:

(1) site construction or preparation;

(2) mobilization or demobilization of drilling equipment;

(3) drilling operations;

(4) fracturing operations;

(5) flowback operations, together with a disclaimer that flaring may or may not occur;

(6) re-working a well; and

(7) plugging and abandoning a well.

(b) The notice shall identify the above activities that will be conducted and shall include the number of wells to be drilled and the estimated duration of the activities. If the activities are to be conducted continuously, they may be listed on one notice. Separate notices shall be required if an activity does not occur within ninety (90) day of the last activity on the Drill Site or Operation Site.



(c) The notice shall provide the address and twenty-four (24) hour phone number of the person conducting the activities, and the telephone numbers to file complaints with the Texas Commission on Environmental Quality and the Texas Railroad Commission.

(d) The Operator shall provide an affidavit certifying that notice has been sent to the above-referenced dwellings.”

## **SECTION 2.**

That Section 114.13(D) of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Sub-Paragraph (4) to read as follows:

“(4) During workover operations, all activities shall be restricted to daytime hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m., Saturday and Sunday. During fracturing operations, all activities shall be restricted to daytime hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays. Fracturing operations shall be prohibited on Sundays.”

## **SECTION 3.**

That Section 114.13(D) of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Sub-Paragraph (7) to read as follows:

“(7) The exterior noise level generated by the drilling, re-drilling or other operations on a drill site or an operation site located within 600 feet of a property occupied by a protected use shall be continuously monitored to ensure compliance. The continuous noise monitoring equipment shall be capable of wireless transmission of real-time noise and audio data. Access to this real-time data shall be made available to the City’s Inspectors. The cost of such monitoring shall be borne by the operator. Where continuous monitoring is not required, and a complaint is received by the city from the occupants of any protected use on property located more than 600 feet from a drill site or operation site, the operator shall, if required by the city, and within 24 hours of notice of the complaint, continuously monitor the exterior noise level generated by the drilling, re-drilling or other operations for a 72-hour period to ensure compliance. At the request of the city, the operator shall monitor the exterior noise level at the source of the complaint.”

## **SECTION 4.**

That Section 114.13 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by adding a new Paragraph (B) to read as follows, and re-lettering the existing Paragraphs (B) through (M) to Paragraphs (C) through (N):

“(B) Electric Power.

(1) An Operator shall use only electricity to power a drilling rig or permanent lift compressors as described in Chapter 114.03(B)(3) of this Code. The electricity shall be provided by the electric delivery utility company utilizing a ground-mounted transformer located on the Drill Site or Operation Site.

(2) The City may approve an alternative power source or equipment such as diesel generators if the Drill Site or Operation Site is located more than one thousand (1,000) feet from a property with a Protected Use, or if the electric delivery utility company reports that there is insufficient capacity to serve a Drill Site or Operation Site.

(3) An Operator may use temporary diesel generators during a disruption of electric service until such service is restored, provided that noise produced by such equipment does not exceed the maximum limits established for the Drill Site or Operation Site.”

#### **SECTION 5.**

That Section 114.21 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Paragraph (A) to read as follows:

“(A) A variance from the requirements of § 114.12(W), 114.13(B), 114.13(L), 114.15(1), and 114.15(M) may be sought by submitting a written request to the Director of Planning. The request must include the following:

\* \* \*

#### **SECTION 6.**

This Ordinance shall be cumulative of all provisions of the City of Mansfield, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

#### **SECTION 7.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and Sections of this Ordinance are severable and if any phrase, clause, sentence, paragraph or Section of this Ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Ordinance since the same could have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or Section.

#### **SECTION 8.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

### **SECTION 9.**

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of any ordinances governing oil and gas well development, production and transportation, which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

### **SECTION 10.**

The City Secretary of the City of Mansfield is hereby directed to publish the caption and penalty clause of this ordinance at least once in the official newspaper of the City of Mansfield.

### **SECTION 11.**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
**David L. Cook, Mayor**

ATTEST:

\_\_\_\_\_  
**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
**Allen Taylor, City Attorney**



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0860

**Agenda Date:** 3/24/2014

**Version:** 2

**Status:** Second Reading

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

**Title**

Ordinance - Second Reading of an Ordinance Amending Regulations of Smoking in Chapter 92, "Health and Sanitation" of the Mansfield Code of Ordinances by Adding Definitions for "Electronic Vaping Device" and "Liquid Nicotine;" Amending the Definition of "Smoking" to Include Electronic Vaping Devices; Prohibiting Smoking at City Parks or Recreational Facilities; Prohibiting the Sale and Distribution of Electronic Vaping Devices and Liquid Nicotine to Minors; and Prohibiting the Possession of Electronic Vaping Devices and Liquid Nicotine by Minors

**Requested Action**

Consider the proposed ordinance amendments

**Recommendation**

Staff recommends approval

**Description/History**

Summaries of the proposed amendments:

- Add electronic vaping device to the definition of "Smoking"
- Add new definition related to electronic vaping device and liquid nicotine
- Add outdoor theater or amphitheater, city park or recreational facilities to prohibited smoking areas
- Other minor changes for consistency

**Prepared By**

Felix Wong, Director of Planning  
817-276-4228



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HHS U.S. Department of Health and Human Services

[FDA](#)

## U.S. Food and Drug Administration

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## FDA Warns of Health Risks Posed by E-Cigarettes

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The Food and Drug Administration (FDA) has joined other health experts to warn consumers about potential health risks associated with electronic cigarettes.

Also known as "e-cigarettes," electronic cigarettes are battery-operated devices designed to look like and to be used in the same manner as conventional cigarettes.

Sold online and in many shopping malls, the devices generally contain cartridges filled with nicotine, flavor, and other chemicals. They turn nicotine, which is highly addictive, and other chemicals into a vapor that is inhaled by the user.

"The FDA is concerned about the safety of these products and how they are marketed to the public," says Margaret A. Hamburg, M.D., commissioner of food and drugs.

The agency is concerned that

- e-cigarettes can increase nicotine addiction among young people and may lead kids to try other tobacco products, including conventional cigarettes, which are known to cause disease and lead to premature death
- the products may contain ingredients that are known to be toxic to humans
- because clinical studies about the safety and efficacy of these products for their intended use have not been submitted to FDA, consumers currently have no way of knowing 1) whether e-cigarettes are safe for their intended use, or 2) about what types or concentrations of potentially harmful chemicals or what dose of nicotine they are inhaling when they use these products.

The potential health risks posed by the use of e-cigarettes were addressed in a July 22, 2009, phone conference between Joshua M. Sharfstein, M.D., principal deputy commissioner of food and drugs; Jonathan Winickoff, M.D., chair of the American Academy of Pediatrics Tobacco Consortium; Jonathan Samet, M.D., director of the University of Southern California's Institute for Global Health; and Matthew T. McKenna, M.D., director of the Office on Smoking and Health at the national Centers for Disease Control and Prevention.

Conference participants stressed the importance of parents being aware of the health and marketing concerns associated with e-cigarettes. It was stated that parents may want to tell their children and teenagers that these products are not safe to use.

Of particular concern to parents is that e-cigarettes are sold without any legal age restrictions, and are available in different flavors (such as chocolate, strawberry and mint) which may appeal to young people.

In addition, the devices do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes.

During the phone conference, which was shared with the news media, FDA announced findings from a laboratory analysis that indicates that electronic cigarettes expose users to harmful chemical ingredients.

FDA's Division of Pharmaceutical Analysis—part of the agency's Center for Drug Evaluation and Research—analyzed the ingredients in a small sample of cartridges from two leading brands of e-cigarette samples.

One sample was found to contain diethylene glycol, a toxic chemical used in antifreeze. Several other samples were found to contain carcinogens, including nitrosamines.

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## Agency Actions

FDA has been examining and detaining shipments of e-cigarettes at the border and has found that the products it has examined thus far meet the definition of a combination drug device product under the Federal Food, Drug, and Cosmetic Act. The agency has been challenged regarding its jurisdiction over certain e-cigarettes in a case currently pending in federal district court.

FDA is planning additional activities to address its concerns about electronic cigarettes.

Meanwhile, health care professionals and consumers may report serious adverse events or product quality problems with the use of e-cigarettes to FDA through the [MedWatch](#) program, either online or by phone at 1-800-FDA-1088.

This article appears on [FDA's Consumer Updates page](#), which features the latest on all FDA-regulated products.

*Date Posted: July 23, 2009; Reviewed Sept. 17, 2013*

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## For More Information

- [FDA and Public Health Experts Warn About Electronic Cigarettes](#) [ARCHIVED]
- [Electronic Cigarettes \(e-Cigarettes\)](#)

## Related Consumer Updates

- [E-Cigarettes: Questions and Answers](#)
- [FDA 101: Smoking Cessation Products](#) [ARCHIVED]
- ["Light" Tobacco Products Pose Heavy Health Risks](#)
- [What Are You Smoking \(or Chewing or Inhaling\)?](#)
- [Less Risky Tobacco Product? Only if the Science Says So](#)
- [Why Do People Use Tobacco? Looking for Answers](#)
- [Why is the Great American Smokeout Important?](#)
- [FDA Modernizing Regulatory Science](#)
- [FDA Unveils New Cigarette Health Warnings](#)
- [Regulating Tobacco: Q&A with Former CTP Director Lawrence Dayton, M.S.P.H., M.D.](#) [ARCHIVED]

Page Last Updated: 11/16/2013

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FDA

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Majority (202) 225-2927  
Minority (202) 225-3641

November 4, 2013

The Honorable Margaret A. Hamburg, M.D.  
Commissioner of Food and Drugs  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Hamburg:

We wrote to you in September to urge you to take action to regulate electronic cigarettes, also known as “e-cigarettes,” citing our concern that use of e-cigarettes among adolescents has increased rapidly.<sup>1</sup> We are now writing to bring to your attention one reason for this disturbing increase of e-cigarette use by youth: there is growing evidence that e-cigarette manufacturers are taking advantage of the absence of regulation to market their products to young smokers. In fact, e-cigarette manufacturers appear to be using exactly the same advertising and promotional techniques that were used for decades by cigarette manufacturers to hook teenagers on their products.

To illustrate what is happening, we have compiled a side-by-side presentation of cigarette and e-cigarette marketing practices at [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov).

#### **Television Advertisements**

Unlike traditional cigarettes, e-cigarettes are not subject to the federal ban on television advertising. Several e-cigarette manufacturers have taken advantage of this loophole to air advertisements during events with heavy teen and young adult viewership. NJOY, an e-cigarette manufacturer, has advertised during the Super Bowl, the Academy Awards, and on ESPN, reaching a general audience of “at least 10 million viewers,” many of them children, teens, or young adults. The NJOY ads have also “been accepted by cable channels owned by Discovery Communications and Viacom ... as well as local broadcast stations in markets like Chicago,

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<sup>1</sup> Letter from Rep. Henry A. Waxman to Commissioner Margaret Hamburg, Food and Drug Administration (Sept. 16, 2013) (online at [democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-Adolescent-Use-of-E-Cigarette-2013-9-16.pdf](http://democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-Adolescent-Use-of-E-Cigarette-2013-9-16.pdf)).

Dallas, Los Angeles, New York, San Francisco, and Seattle.”<sup>2</sup> Television ads for Blu e-cigarettes have aired nationally on Comedy Central, whose target audience is young males, including on Comedy Central's *Workaholics*, a top-rated show among 18 to 24 year olds.<sup>3</sup>

The e-cigarette companies have also used celebrities to promote their products. Lorillard, which makes Blu e-cigarettes, has run TV ads featuring Jenny McCarthy and Stephen Dorff over 8,000 times.<sup>4</sup>

These television ads used by e-cigarette manufacturers are eerily similar to television advertisements from cigarette manufacturers from the 1950s and 1960s. At our website, [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov), you can compare these ads side-by-side. The e-cigarette ads from today and the cigarette ads from decades ago both send the same unmistakable message: smoking is cool and sexy. Over 50 years ago, R.J. Reynolds ran a TV ad featuring Lee Marvin, the actor who once portrayed action heroes and hardboiled detectives. In the advertisement, Mr. Marvin works out with a punching bag before extolling the virtues of Pall Mall cigarettes.<sup>5</sup> Last year, Lorillard ran an ad with actor Stephen Dorff, who is described as “oozing machismo” and “inhaling with swagger.”<sup>6</sup> In the ad, Mr. Dorff asserts, “It’s time we take our freedom back.”

In the 1950s, R.J. Reynolds ran a TV ad with actress Eva Gabor endorsing Camel cigarettes. Ms. Gabor stares at the camera and says in a sultry voice, “Let’s go somewhere where we can be comfortable, and I tell you why – I smoke Camels.”<sup>7</sup> Earlier this year, Lorillard ran an ad with Jenny McCarthy, the former Playboy model, in which she also seductively stares

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<sup>2</sup> *Campaigns for E-Cigarettes Borrow From Tobacco’s Heyday*, New York Times (Dec. 5, 2012) (online at [www.nytimes.com/2012/12/06/business/media/campaigns-for-electronic-cigarettes-borrow-from-their-tobacco-counterparts.html?pagewanted=print](http://www.nytimes.com/2012/12/06/business/media/campaigns-for-electronic-cigarettes-borrow-from-their-tobacco-counterparts.html?pagewanted=print)).

<sup>3</sup> *In the Tastes of Young Men, Humor Is Most Prized, a Survey Finds*, New York Times (Feb. 19, 2012) (online at [www.nytimes.com/2012/02/20/business/media/comedy-central-survey-says-young-men-see-humor-as-essential.html](http://www.nytimes.com/2012/02/20/business/media/comedy-central-survey-says-young-men-see-humor-as-essential.html)).

<sup>4</sup> iSpot.tv, *Blu Cigs TV Spot Featuring Stephen Dorff* (online at [www.ispot.tv/ad/7YDZ/blu-cigs-featuring-stephen-dorff](http://www.ispot.tv/ad/7YDZ/blu-cigs-featuring-stephen-dorff)); iSpot.tv, *Blu Cigs TV Spot Featuring Jenny McCarthy* (online at [www.ispot.tv/ad/7q7i/blu-cigs-featuring-jenny-mccarthy](http://www.ispot.tv/ad/7q7i/blu-cigs-featuring-jenny-mccarthy)).

<sup>5</sup> Pall Mall Advertisement (est. 1950s) (online at <http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>).

<sup>6</sup> *Big Tobacco back in TV viewers’ faces as FDA cuts in*, USA Today (Sept. 4, 2013) (online at [www.usatoday.com/story/news/nation/2013/09/03/big-tobacco-tv-ecigarette-ads/2608427/](http://www.usatoday.com/story/news/nation/2013/09/03/big-tobacco-tv-ecigarette-ads/2608427/)).

<sup>7</sup> Camel Cigarettes Advertisement (est. 1950s) (online at <http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>).



at the camera and says “I love being single” before explaining how with Blu e-cigarettes she doesn’t have to “worry about scaring that special someone away.”<sup>8</sup>

### Print Advertisements

E-cigarette magazine advertisements feature celebrities and utilize sex appeal and images of nightlife environments – clubs, parties, and bars – as well as messages designed to appeal to adolescents. These are the same techniques used by tobacco companies decades ago. The Campaign for Tobacco Free Kids has noted that these ads “feature today’s equivalents of the Marlboro Man and the Virginia Slims woman, depicting e-cigarette use as masculine, sexy or glamorous.”<sup>9</sup>

These e-cigarette advertisements are not restricted to magazines with adult readerships. For example, Fin and Blu e-cigarette ads have both appeared in *Rolling Stone*, which was once “a mainstay of tobacco advertising” due to high youth readership.<sup>10</sup>

At our website, [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov), you can compare these ads side-by-side. One suggestive Blu e-cigarette ad published in magazines last year is the spitting image of a 1933 Lucky Strike ad, with both ads showing women leaning back into the embrace of fashionable men. One Lucky Strike ad from 1930, which bears a striking resemblance to a Blu ad from last year, claimed that Luckies remove “irritants that cause throat irritation and coughing.”<sup>11</sup> The Blu ad touts that e-cigarettes produce “no tobacco smoke and no ash ... making it the ... smarter alternative to regular cigarettes.” A 1959 Pall Mall ad and a 2013 XEO ad – with the tagline “What’s Your Taste” – both use images of fresh, healthy fruits to sell tobacco and e-cigarettes. Other ad pairing examples on our website share similar themes, showing cigarette smokers from decades ago or e-cigarette users today enjoying themselves in airplanes, automobiles, and boats.

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<sup>8</sup> Blu Electronic Cigarettes Advertisement (2013) (online at <http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>).

<sup>9</sup> Campaign for Tobacco-Free Kids, *CDC Survey Finds Youth E-Cigarette Use More than Doubled from 2011-2012, Shows Urgent Need for FDA Regulation* (Sept. 5, 2013) (online at [www.tobaccofreekids.org/press\\_releases/post/2013\\_09\\_05\\_ecigarettes](http://www.tobaccofreekids.org/press_releases/post/2013_09_05_ecigarettes)).

<sup>10</sup> National Cancer Institute, *Themes and Targets of Tobacco Advertising and Promotion* (online at [cancercontrol.cancer.gov/brp/tcrb/monographs/19/m19\\_5.pdf](http://cancercontrol.cancer.gov/brp/tcrb/monographs/19/m19_5.pdf)).

<sup>11</sup> Lucky Strike Advertisement (1930) (online at <http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>).

### Cartoon Imagery

Traditional cigarette manufacturers used cartoon characters to promote their products before they were banned under the Tobacco Master Settlement Agreement. R.J. Reynolds's long-time use of Joe Camel is one prominent example.<sup>12</sup> E-cigarette manufacturers are now using the same techniques. For example, eJuiceMonkeys.com and Magic Puff City E-cigarettes both use cartoon monkeys to sell e-cigarettes. Blu's website has featured a cartoon character "Mr. Cool." Blu also produced a web video featuring the same cartoon character in a cartoon storyboard visual format. Our website displays the similarities.

### Sports Sponsorships

E-cigarette manufacturers are sponsoring numerous sporting events and athletes. These e-cigarette manufacturer sponsorships are similar to those of cigarette manufacturers who sponsored numerous sporting events before they were banned from name brand sponsorship of certain events under the Tobacco Master Settlement Agreement and later by the Family Smoking Prevention and Tobacco Control Act.<sup>13</sup>

Before the sponsorship ban, cigarettes had "long been a tradition at NASCAR," with R.J. Reynolds sponsoring the Winston Cup for over three decades and Philip Morris sponsoring the Marlboro Grand Prix, among other popular auto racing events.<sup>14</sup> Motor sports once received "70% of all tobacco sports sponsorship," helping "tobacco brands become distinctly associated

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<sup>12</sup> Magic Puff City E-cigarettes, *Disposable Vanilla* (online at [cityecigarettes.com/index.php/products/disposable-e-cigarettes/disposable-225.html](http://cityecigarettes.com/index.php/products/disposable-e-cigarettes/disposable-225.html)); eJuiceMonkeys, *Twitter page* (online at [twitter.com/eJuiceMonkeys](https://twitter.com/eJuiceMonkeys)); Stanford School of Medicine, *Joe Camel* (online at [tobacco.stanford.edu/tobacco\\_main/images.php?token2=fm\\_st138.php&token1=fm\\_img4072.php&theme\\_file=fm\\_mt015.php&theme\\_name=Targeting%20Teens&subtheme\\_name=Joe%20Camel](http://tobacco.stanford.edu/tobacco_main/images.php?token2=fm_st138.php&token1=fm_img4072.php&theme_file=fm_mt015.php&theme_name=Targeting%20Teens&subtheme_name=Joe%20Camel)).

<sup>13</sup> Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31.

<sup>14</sup> PR Newswire, *blu eCigs Brings Sleek New Look To Rahal Letterman Lanigan Racing's No. 15 IndyCar At Houston Grand Prix Event* (Sept. 26, 2013) (online at [www.prnewswire.com/news-releases/blu-ecigs-brings-sleek-new-look-to-rahall-letterman-lanigan-racings-no-15-indycar-at-houston-grand-prix-event-225371251.html](http://www.prnewswire.com/news-releases/blu-ecigs-brings-sleek-new-look-to-rahall-letterman-lanigan-racings-no-15-indycar-at-houston-grand-prix-event-225371251.html)); *NASCAR Now Smokeless, New Law Prevents Tobacco From Sports Advertising*, Bleacher Report (June 2, 2010) (online at <http://bleacherreport.com/articles/400529-nascar-now-smokeless-new-law-prevents-tobacco-from-sports-advertising>); *Tobacco's Imprimatur Is Less Bold, but Still on Cultural Events*, New York Times (June 21, 1999) (online at [www.nytimes.com/1999/06/21/arts/tobacco-s-imprimatur-is-less-bold-but-still-on-cultural-events.html?pagewanted=all&src=pm](http://www.nytimes.com/1999/06/21/arts/tobacco-s-imprimatur-is-less-bold-but-still-on-cultural-events.html?pagewanted=all&src=pm)).



with the lifestyles” of racecar drivers.<sup>15</sup> Today, in the absence of cigarette manufacturer sponsorship, e-cigarette makers have eagerly stepped in and begun to blanket racing events with free e-cigarette samples and racecar drivers with sponsorship deals.

E-Swisher and its “e-Swisher Racing Team” is the primary sponsor of NASCAR driver Reed Sorenson.<sup>16</sup> Green Smoke has sponsored NASCAR driver T.J. Bell at the Sprint Cup Series and the Coca Cola 600 race.<sup>17</sup> And Blu, as the primary sponsor of RLL Racing’s No. 15 Indy Car, distributes e-cigarette samples at racing events like the Houston Grand Prix.<sup>18</sup> On our website, you can compare the cigarette brand advertising once plastered on racecars to the similar e-cigarette advertisements covering racecars today.

### Event Promotions

E-cigarettes are also promoting their products through sponsorship of youth-oriented events. Blu has sponsored numerous major music festivals, including South by Southwest, Bonnaroo, Sasquatch! Music Festival, Governors Ball, and HARD Summer L.A. At these festivals, Blu operates an “eCigs Vapor Lounge” where attendees can win VIP tickets, watch exclusive artist performances from “top performers in the indie, rock, and hip-hop genres,” and sample e-cigarettes.<sup>19</sup>

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<sup>15</sup> Pamela M. Ling et al., *Branding the Rodeo: A Case Study of Tobacco Sports Sponsorship*, American Journal of Public Health (Jan. 2010) (online at [www.ncbi.nlm.nih.gov/pmc/articles/PMC2791245/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2791245/)); National Cancer Institute, *Themes and Targets of Tobacco Advertising and Promotion* (online at [cancercontrol.cancer.gov/brp/tcrb/monographs/19/m19\\_5.pdf](http://cancercontrol.cancer.gov/brp/tcrb/monographs/19/m19_5.pdf)).

<sup>16</sup> Reed Sorenson, *E-Swisher Expands Partnership With Reed Sorenson And The Motorsports Group In Nascar Nationwide Series* (Apr. 23, 2013) (online at [reedsorenson.com/news/13/e-Swisher-Expands-Partnership-with-Reed-Sorenson-and-The-Motorsports-Group-in-NASCAR-Nationwide-Series.html](http://reedsorenson.com/news/13/e-Swisher-Expands-Partnership-with-Reed-Sorenson-and-The-Motorsports-Group-in-NASCAR-Nationwide-Series.html)).

<sup>17</sup> Green Smoke, *Green Smoke Makes NASCAR History* (online at [blog.greensmoke.com/nascar/green-smoke-makes-nascar-history.htm](http://blog.greensmoke.com/nascar/green-smoke-makes-nascar-history.htm)); Green Smoke, *We’re Sponsoring TJ Bell In This Years Coca Cola 600 NASCAR Race* (online at [blog.greensmoke.com/electronic-cigarettes/we%E2%80%99re-sponsoring-tj-bell-in-this-years-coca-cola-600-nascar-race.htm](http://blog.greensmoke.com/electronic-cigarettes/we%E2%80%99re-sponsoring-tj-bell-in-this-years-coca-cola-600-nascar-race.htm)).

<sup>18</sup> PR Newswire, *blue Cigs Brings Sleek New Look To Rahal Letterman Lanigan Racing’s No. 15 IndyCar At Houston Grand Prix Event* (Sept. 26, 2013) (online at [www.prnewswire.com/news-releases/blu-ecigs-brings-sleek-new-look-to-rahall-letterman-lanigan-racings-no-15-indycar-at-houston-grand-prix-event-225371251.html](http://www.prnewswire.com/news-releases/blu-ecigs-brings-sleek-new-look-to-rahall-letterman-lanigan-racings-no-15-indycar-at-houston-grand-prix-event-225371251.html)).

<sup>19</sup> *blu eCigs Announces Sponsorship of Sasquatch! Music Festival*, PR Newswire (May 20, 2013) (online at <http://www.prnewswire.com/news-releases/blu-ecigs-announces-sponsorship-of-sasquatch-music-festival-208127521.html>).

E-cigarette manufacturers have also held numerous widely attended promotional events and sponsored many other activities to market their products to youthful audiences. This summer, South Beach Smoke “stood with an estimated half a million people at the Miami Heat’s victory parade” distributing e-cigarette coupons.<sup>20</sup> NJOY has distributed e-cigarettes at the New York and London Fashion Weeks.<sup>21</sup> Fin has sponsored the “FoodaBluz” food and blues festival, and e-Swisher has sponsored The World Series of Poker.<sup>22</sup>

These promotional efforts are similar to those used by large cigarette manufacturers for decades. These manufacturers had “long used sponsorship of music concerts popular with young people to promote its products,” with tobacco advertising prominent at events like the Essence Music Festival and Kool Jazz Festival.<sup>23</sup> Tobacco brands like Marlboro, Camel, and Kool sponsored concerts and events.<sup>24</sup> Over a decade ago, the *New York Times* reported that tobacco sponsorship of music and other events at bars in major cities had “become an increasingly entrenched feature of American night life.”<sup>25</sup> On our website, you can compare the music festival advertising and promotional material of cigarette and e-cigarette companies.

### Conclusion

FDA’s delay in regulating e-cigarettes is creating a loophole that manufacturers are exploiting to target young users. The e-cigarette manufacturers are using many of the exact same advertising and promotional techniques used for decades by cigarette manufacturers to hook

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<sup>20</sup> *South Beach Smoke Distributes NO HATE ZONE Flyers at Miami Heat Parade*, Wall Street Journal (June 25, 2013) (online at [online.wsj.com/article/PR-CO-20130625-905056.html](http://online.wsj.com/article/PR-CO-20130625-905056.html)).

<sup>21</sup> *Fashion Week and E-cigarettes: The Jury’s Still Out*, New York Magazine (Sept. 12, 2013) (online at [nymag.com/thecut/2013/09/fashion-week-and-e-cigarettes-jurys-still-out.html](http://nymag.com/thecut/2013/09/fashion-week-and-e-cigarettes-jurys-still-out.html)).

<sup>22</sup> BusinessWire, *e-Swisher e-Cigarettes Bet Big with World Series of Poker Partnership* (July 11, 2013) (online at [www.businesswire.com/news/home/20130711006389/en/e-Swisher-e-Cigarettes-Bet-Big-World-Series-Poker%C2%AE](http://www.businesswire.com/news/home/20130711006389/en/e-Swisher-e-Cigarettes-Bet-Big-World-Series-Poker%C2%AE)); Fin, *Fin E-Cigs Help Make First Foodabluz a Hit* (May 1, 2013) (online at [www.fincigs.com/2013/05/fin-e-cigs-help-make-first-foodabluz-a-hit/](http://www.fincigs.com/2013/05/fin-e-cigs-help-make-first-foodabluz-a-hit/)).

<sup>23</sup> *U.S. Bands Must Smash Tobacco Sponsorship*, Huffington Post (Sept. 28, 2010) (online at [www.huffingtonpost.com/matt-myers/us-bands-must-smash-tobac\\_b\\_741676.html](http://www.huffingtonpost.com/matt-myers/us-bands-must-smash-tobac_b_741676.html)); Stanford Research into the Impact of Tobacco Advertising, *Music and Tobacco Marketing* (Aug. 6, 2013) (online at [www.youtube.com/watch?v=zFN2hJGa7UM](http://www.youtube.com/watch?v=zFN2hJGa7UM)).

<sup>24</sup> *Tobacco’s Imprimatur Is Less Bold, but Still on Cultural Events*, New York Times (June 21, 1999) (online at [www.nytimes.com/1999/06/21/arts/tobacco-s-imprimatur-is-less-bold-but-still-on-cultural-events.html?pagewanted=all&src=pm](http://www.nytimes.com/1999/06/21/arts/tobacco-s-imprimatur-is-less-bold-but-still-on-cultural-events.html?pagewanted=all&src=pm)).

<sup>25</sup> *Id.*

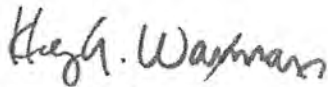


The Honorable Margaret A. Hamburg, M.D.  
November 4, 2013  
Page 7


teenagers on their products. These include TV advertisements, magazine advertisements, sport and event sponsorships, and even the use of cartoon characters.

We believe FDA action is essential to ensure that e-cigarette makers stop targeting the nation's youth. We recognize that there is a debate about the value of e-cigarettes as an alternative for addicted adults. But whatever the merits for adult smokers, these addictive products should not be used by teenagers. The companies' practices show that they are not capable of self-regulation. FDA must act now to protect children from their unscrupulous marketing campaigns.

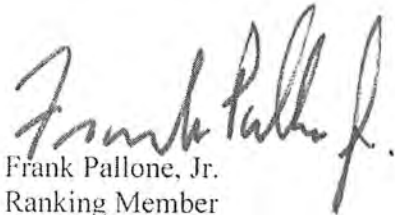
Sincerely,



Henry A. Waxman  
Ranking Member



Diana DeGette  
Ranking Member  
Subcommittee on Oversight  
and Investigations



Frank Pallone, Jr.  
Ranking Member  
Subcommittee on Health

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641

September 16, 2013

The Honorable Margaret A. Hamburg, M.D.  
Commissioner  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Hamburg:

Earlier this month, the Centers for Disease Control and Prevention (CDC) released new data showing that the percentage of adolescents who use electronic cigarettes, or “e-cigarettes,” is growing rapidly.<sup>1</sup> According to the CDC report, over 1.7 million U.S. middle and high school students tried e-cigarettes last year. We are writing to urge the Food and Drug Administration (FDA) to act quickly to appropriately regulate these products.

The authors of the CDC’s report — who are all from either the FDA’s Center for Tobacco Products or the CDC’s Office on Smoking and Health — cite serious concerns about the health effects of the use of e-cigarettes. For instance, they indicate that e-cigarettes may contain potentially harmful constituents, including irritants and animal carcinogens.<sup>2</sup> They also raise concerns about the potential negative effects “on adolescent brain development, as well as the risk for nicotine addiction.”<sup>3</sup> In an earlier study, FDA found that e-cigarette vapor samples contained toxic chemicals “such as diethylene glycol, an ingredient used in antifreeze.”<sup>4</sup>

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<sup>1</sup> Centers for Disease Control and Prevention, *Notes from the Field: Electronic Cigarette Use Among Middle and High School Students – United States, 2011-2012* (Sept. 6, 2013) (online at [www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s\\_cid=mm6235a6\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s_cid=mm6235a6_w)).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Food and Drug Administration, *FDA and Public Health Experts Warn About Electronic Cigarettes* (July 22, 2009) (online at [www.fda.gov/NewsEvents/Newsroom/%20PressAnnouncements/ucm173222.htm](http://www.fda.gov/NewsEvents/Newsroom/%20PressAnnouncements/ucm173222.htm)).



Despite these health concerns, e-cigarettes are currently completely unregulated. Manufacturers of e-cigarettes are taking advantage of this regulatory loophole to target children. Manufacturers of traditional cigarettes are banned from introducing flavoring into their products to attract children, but this prohibition does not apply to e-cigarettes. As a result, some e-cigarette makers are producing products with kid-friendly flavors such as “Cherry Crush” and “Cookies & Cream Milkshake.”<sup>5</sup>

Unlike traditional cigarettes, e-cigarettes are also not subject to the federal ban on television advertising. Advertising spending on products like e-cigarettes has skyrocketed from \$2.7 million in 2010 to \$20.8 million last year, using tactics like celebrity endorsements and sports sponsorships to glamorize smoking. According to the American Lung Association, these products are being directly marketed to kids, “which could result in a lifelong addiction to nicotine.”<sup>6</sup>

The new CDC report shows the dangerous impacts these practices are having. Use of e-cigarettes by youth doubled in just one year from 2011 to 2012.<sup>7</sup> Moreover, the CDC data suggest that e-cigarettes could be serving as a gateway product to nicotine addiction. Over 20% of the middle school students who reported using e-cigarettes said they had never tried traditional cigarettes.<sup>8</sup> According to the authors of the CDC report, “This raises concern that there may be young people for whom e-cigarettes could be an entry point to use of conventional tobacco products, including cigarettes.”<sup>9</sup> As CDC Director Tom Frieden stated when the report was

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<sup>5</sup> *E-cigarettes may have a place – just not with minors*, Boston Globe (July 12, 2013) (online at [www.bostonglobe.com/opinion/editorials/2013/07/11/cigarettes-may-have-place-just-not-with-minors/aIJcHjP5LJZL6k7cLjQ8OK/story.html](http://www.bostonglobe.com/opinion/editorials/2013/07/11/cigarettes-may-have-place-just-not-with-minors/aIJcHjP5LJZL6k7cLjQ8OK/story.html)).

<sup>6</sup> *Rise Is Seen in Students Who Use E-Cigarettes*, New York Times (Sept. 5, 2013) (online at [www.nytimes.com/2013/09/06/health/e-cigarette-use-doubles-among-students-survey-shows.html?pagewanted=print](http://www.nytimes.com/2013/09/06/health/e-cigarette-use-doubles-among-students-survey-shows.html?pagewanted=print)); *FDA Oversight Badly Needed*, New York Times (Aug. 20, 2013) (online at [www.nytimes.com/roomfordebate/2013/08/20/the-ambiguous-allure-of-the-e-cig/fda-oversight-of-e-cigs-badly-needed](http://www.nytimes.com/roomfordebate/2013/08/20/the-ambiguous-allure-of-the-e-cig/fda-oversight-of-e-cigs-badly-needed)); *Electronic cigarettes growing in popularity with teens*, Los Angeles Times (Sept. 6, 2013) (online at [www.latimes.com/science/la-sci-e-cigarettes-20130906,0,2387959.story](http://www.latimes.com/science/la-sci-e-cigarettes-20130906,0,2387959.story)); *State of Tobacco Control 2013*, American Lung Association (Jan. 16, 2013) (online at [www.stateoftobaccocontrol.org/sotc-2013-report.pdf](http://www.stateoftobaccocontrol.org/sotc-2013-report.pdf)).

<sup>7</sup> Centers for Disease Control and Prevention, *Notes from the Field: Electronic Cigarette Use Among Middle and High School Students – United States, 2011-2012* (Sept. 6, 2013) (online at [www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s\\_cid=mm6235a6\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s_cid=mm6235a6_w)).

<sup>8</sup> *Id.*

<sup>9</sup> Centers for Disease Control and Prevention, *E-cigarette use more than doubles among U.S. middle and high school students from 2011 to 2012* (Sept. 5, 2013) (online at [www.cdc.gov/media/releases/2013/p0905-ecigarette-use.html](http://www.cdc.gov/media/releases/2013/p0905-ecigarette-use.html)).

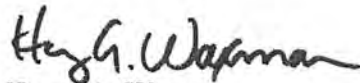
The Honorable Margaret A. Hamburg, M.D.  
September 16, 2013  
Page 3

released, "Many teens who start with e-cigarettes may be condemned to struggling with a lifelong addiction to nicotine and conventional cigarettes."<sup>10</sup>

We recognize that some believe e-cigarettes could advance public health if addicted smokers switch to e-cigarettes from traditional cigarettes. Others advance the idea that e-cigarettes could help provide a pathway to smoking cessation. We do not dismiss these ideas, but they need to be proven. In 2009, Congress enacted the Family Prevention and Tobacco Control Act to give FDA the authority to make science-based decisions about products like e-cigarettes.<sup>11</sup> Certainly, these dangerous products should not be marketed to children.

As a first step, FDA needs to assert jurisdiction over e-cigarettes. We know you have been working on these "deeming" regulations for years. But as the new CDC report makes clear, continued delay comes with a large public health cost. That is why we are writing to urge you to accelerate your efforts. With over a million youth now using e-cigarettes, FDA needs to act without further delay to protect public health.

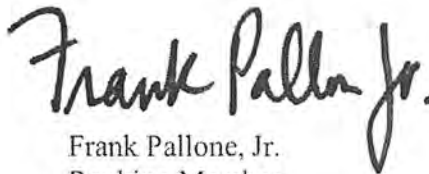
Sincerely,



Henry A. Waxman  
Ranking Member  
Committee on Energy and  
Commerce



Diana DeGette  
Ranking Member  
Subcommittee on Oversight and  
Investigations



Frank Pallone, Jr.  
Ranking Member  
Subcommittee on Health



John D. Dingell  
Member  
Committee on Energy and  
Commerce

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<sup>10</sup> *Id.*

<sup>11</sup> Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31.



## HSPH News

Harvard School of Public Health > HSPH News > HSPH in the News > **Tobacco control news: e-cigarette health risks; decline in Greek smoking rates**

# Tobacco control news: e-cigarette health risks; decline in Greek smoking rates

## *E-cigarettes affect airways*

A new study finds that electronic cigarettes, marketed as safer alternatives for nicotine fixes than tobacco products, carry health risks of their own. Researchers from the Center for Global Tobacco Control at Harvard School of Public Health (HSPH), working with colleagues in Greece, asked healthy adult smokers to smoke an electronic cigarette for five minutes. After taking breathing tests, subjects showed signs of airway constriction and inflammation.

“This is the first evidence that just one (e-cigarette) use can have acute physiologic effects,” lead researcher Constantine Vardavas, a visiting scientist at HSPH, told *Reuters Health*. “More studies on the long-term effects are needed,” he said.

## **Higher taxes, less smoking**

Tax hikes on cigarettes appear to finally be making a dent in the smoking habits of Greeks, who are among the world’s heaviest smokers. Bans on smoking in public places are widely ignored and little enforced, but HSPH’s [[Gregory N. Connolly]] is encouraged by the 16% drop in the number of those lighting up over the past year. Connolly, director of the HSPH Center for Global Tobacco Control, recently presented a report on the “Greek Tobacco Epidemic” at a conference in Athens. He believes that public awareness campaigns about the dangers of tobacco are beginning to make a mark with the Greek people.

Referring to Greek youth, Connolly told the *SETimes*, “[Foreign tobacco companies] are sending a message that smoking is cool, but it’s killing them.”

[Read \*Reuters Health\* article](#)

[Read \*SETimes\* article](#)

## **Learn more**

[Greece Goes Smoke-Free in Restaurants, Bars with HSPH Support \(HSPH feature\)](#)

[Making Smoking History Worldwide \(\*Harvard Public Health Review\*\)](#)



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James McPherson

September 24, 2013

The Honorable Margaret Hamburg, Commissioner  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Re: FDA Regulation of E-Cigarettes

Dear Commissioner Hamburg,

The undersigned Attorneys General write to urge the Food and Drug Administration (FDA) to take all available measures to meet the FDA's stated deadline of October 31, 2013, to issue proposed regulations that will address the advertising, ingredients, and sale to minors of electronic cigarettes (also known as e-cigarettes).

State Attorneys General have long fought to protect their States' citizens, particularly youth, from the dangers of tobacco products. For example, every State Attorney General sued the major cigarette companies for the harm their products caused. With the protection of our States' citizens again in mind, the undersigned Attorneys General write to highlight the need for immediate regulatory oversight of e-cigarettes, an increasingly widespread, addictive product.

As you know, e-cigarettes are battery-operated products designed to deliver nicotine to the user by heating liquid nicotine, derived from tobacco plants, along with flavors and other chemicals, into a vapor that the user inhales. The nicotine found in e-cigarettes is highly addictive, has immediate bio-chemical effects on the brain and body at any dosage, and is toxic in high doses.<sup>1</sup>

E-Cigarette Sales are Growing Exponentially Using Marketing that Includes Television

Sales of e-cigarettes have grown rapidly in the United States, and after doubling every year since 2008, sales in 2013 are now accelerating even faster and projected to reach \$1.7 billion.<sup>2</sup> The cost of e-cigarettes has fallen

<sup>1</sup> U.S. Surgeon General, U.S. Department of Health and Human Services, *The Health Consequences of Smoking: Nicotine Addiction* (1988); Emergency Response Safety and Health Database, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, [http://www.cdc.gov/niosh/erashdb/EmergencyResponseCard\\_29750028.html](http://www.cdc.gov/niosh/erashdb/EmergencyResponseCard_29750028.html)

<sup>2</sup> Compare Josh Sanburn, *Can Electronic Cigarettes Challenge Big Tobacco?*, Time.com, Jan. 8, 2013, available at <http://business.time.com/2013/01/08/can-electronic-cigarettes-challenge-big-tobacco/>, (estimating 2013 sales at \$1 billion), with Stuart Elliot, *E-Cigarette Makers' Ads Echo Tobacco's Heyday*, New York Times, Aug. 29, 2013, available at <http://www.nytimes.com/2013/08/30/business/media/e-cigarette-makers-ads-echo-tobaccos-heyday.html>, (estimating 2013 sales at \$1.7 billion).



dramatically, as well, making them more affordable, and thus more attractive to young people. Unlike traditional tobacco products, there are no federal age restrictions that would prevent children from obtaining e-cigarettes, nor are there any advertising restrictions.

Along with the growth of e-cigarette sales, there has also been a growth of e-cigarette advertising over the past year. For example, in this year's Super Bowl broadcast, NJOY e-cigarettes purchased a 30-second television advertisement slot which reached at least 10 million viewers in certain markets and reportedly translated into a dramatic 30-40% increase in sales.<sup>3</sup> The advertisement depicted an attractive man smoking an e-cigarette that looked just like a real cigarette. Since then, advertisements for e-cigarettes have regularly appeared on primetime television, making it easier for those advertisements to reach children. Moreover, e-cigarettes are not being marketed as smoking cessation devices, but rather as recreational alternatives to real cigarettes. Consumers are led to believe that e-cigarettes are a safe alternative to cigarettes, despite the fact that they are addictive, and there is no regulatory oversight ensuring the safety of the ingredients in e-cigarettes.

### E-Cigarettes Appeal to Youth

E-cigarettes contain fruit and candy flavors -- such as cherry, chocolate, gummy bear, and bubble gum -- that are appealing to youth. The FDA has banned such flavors from cigarettes and should take the same action regarding e-cigarettes. E-cigarettes and refills of the liquid nicotine solution used with e-cigarettes can easily be ordered online without age verification. By intentional use or mistaken ingestion from the non-child resistant containers, e-cigarettes and liquid nicotine refills can deliver dangerously high doses of liquid nicotine to youth.

In addition to flavors, e-cigarette manufacturers, such as eJuiceMonkeys.com and Magic Puff City E-cigarettes, use cartoon monkeys to sell e-cigarettes,<sup>4</sup> even though for many years, the major manufacturers of traditional cigarettes have been banned from using cartoons to advertise. Finally, e-cigarette manufacturers, such as White Cloud Cigarettes, offer reusable e-cigarette "skins" -- known as Vapor Jackets -- that are intended to make the e-cigarette desirable or fashionable and are available in a variety of patterns that appeal to children, one of which uses images from the popular video game, Angry Birds.<sup>5</sup>

Further, data from the 2011 and 2012 National Youth Tobacco Surveys (conducted by the Centers for Disease Control and Prevention) show that e-cigarette use among students doubled in the last year. Specifically, one in 10 high school students reported that they had tried an e-cigarette in the last year -- up from one in 20 in 2011, and 1.8 million middle and high school students said they had tried e-cigarettes in 2012.<sup>6</sup> The increased usage among young people

<sup>3</sup> Benjamin Wallace, *Smoke Without Fire*, New York Magazine, April 28, 2013, available at <http://nymag.com/news/features/e-cigarettes-2013-5/>.

<sup>4</sup> See <http://ejuicemonkeys.com/> and <http://cityecigarettes.com/>

<sup>5</sup> See <http://www.whitecloudelectroniccigarettes.com/accessories/vapor-jackets/>

<sup>6</sup> Catherine Corey, *Notes from the Field: Electronic Cigarette Use Among Middle and High School Students – United States, 2011–2012*, Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, September 6, 2013, available at [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s\\_cid=mm6235a6\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s_cid=mm6235a6_w)

echoes the growth among adult users, and researchers indicated that aggressive marketing campaigns, in part, drove the increase.<sup>7</sup>

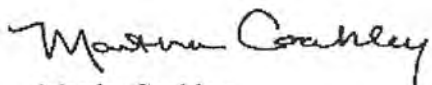
The FDA has Authority to Regulate E-cigarettes and Protect the Public

In the Tobacco Control Act, Congress recognized that nicotine is an addictive drug, and virtually all new users of tobacco products are under the age of eighteen and are therefore too young to legally purchase such products. Congress further found that tobacco advertising and marketing contributes significantly to the teenage use of nicotine-containing tobacco products. To help prevent children from using tobacco products, the Tobacco Control Act imposed restrictions on advertising and marketing to youth. These restrictions should be applied to e-cigarettes, as well, to safeguard children from nicotine addiction and other potential health effects of e-cigarettes.

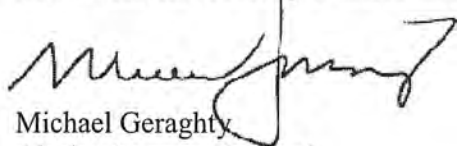
The FDA has authority to regulate electronic cigarettes as “tobacco products” under the Tobacco Control Act, as they are products “made or derived from tobacco” that are not a “drug,” “device,” or combination product. Case law, such as *Sottera, Inc. v. Food & Drug Administration*, 627 F.3d 891 (D.C. Cir. 2010), further supports the contention that e-cigarettes are “made or derived from tobacco” and can be regulated as “tobacco products” under the Tobacco Control Act.

We ask the FDA to move quickly to ensure that all tobacco products are tested and regulated to ensure that companies do not continue to sell or advertise to our nation’s youth.

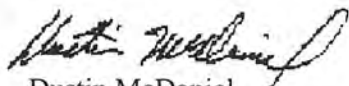
Very respectfully yours,



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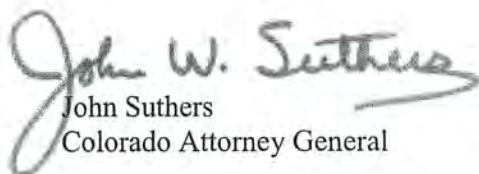


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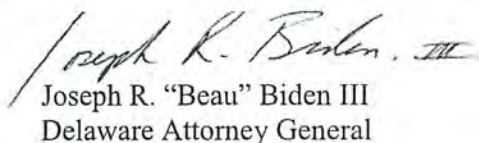
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<sup>7</sup> Sabrina Tavernise, *Rise Is Seen in Students Who Use E-Cigarettes*, New York Times, September 5, 2013, available at <http://www.nytimes.com/2013/09/06/health/e-cigarette-use-doubles-among-students-survey-shows.html>

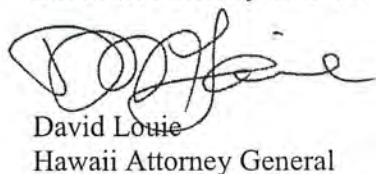




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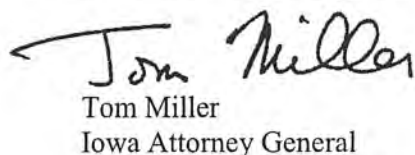
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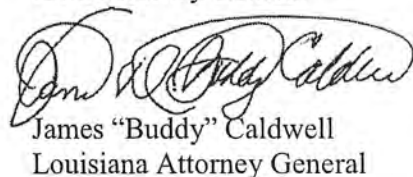
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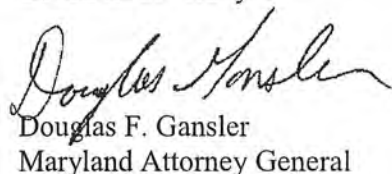
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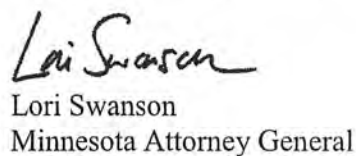
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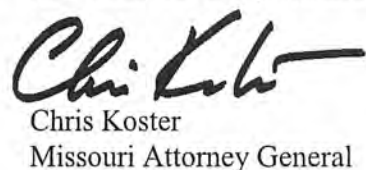
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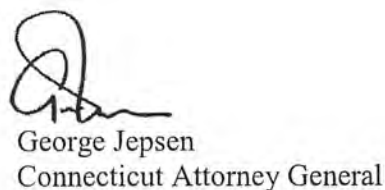
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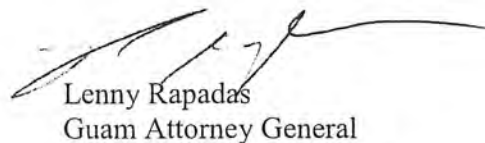
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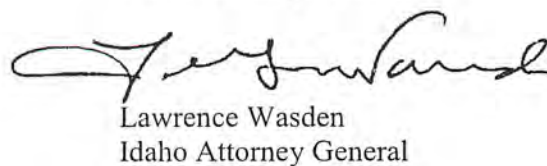
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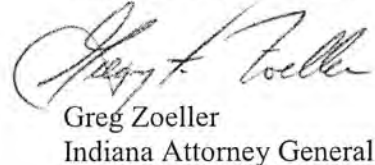
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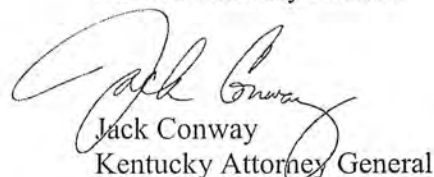
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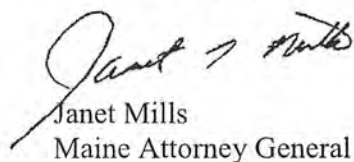
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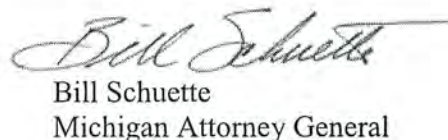
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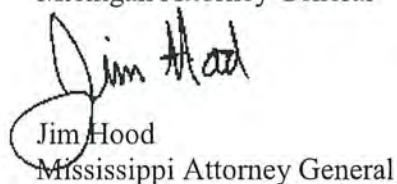
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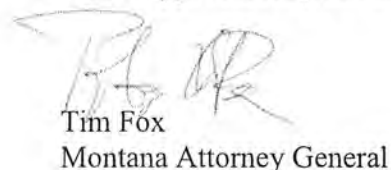
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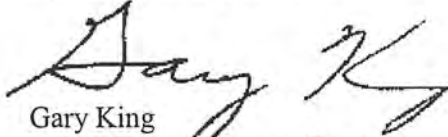
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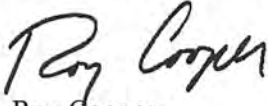
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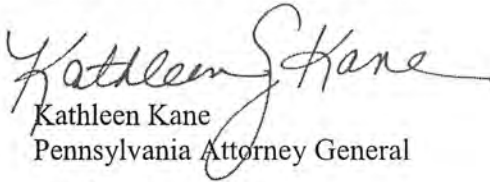
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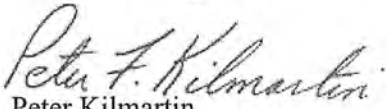
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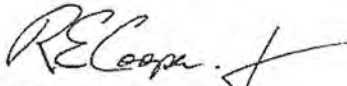
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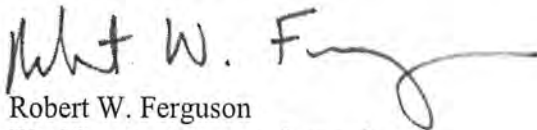
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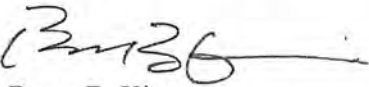
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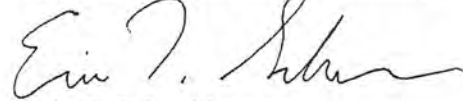
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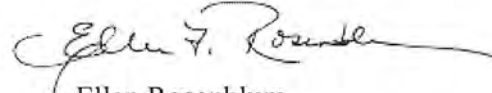
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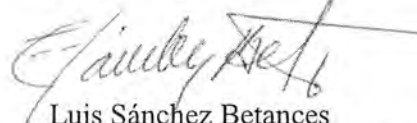
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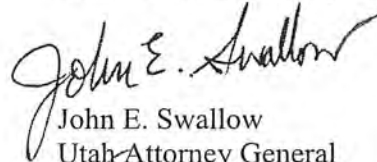
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## Featured Research

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## Study documents secondhand exposure to nicotine from electronic cigarettes

Date: December 12, 2013

Source: Roswell Park Cancer Institute

**Summary:** Study compared emissions from electronic and conventional cigarettes, and found that secondhand exposure to nicotine from e-cigarettes is on average 10 times less than from tobacco smoke.

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Results showed that e-cigarettes emitted significant amounts of nicotine, but did not emit substantial amounts of carbon monoxide and toxic volatile organic compounds.

Credit: © ppi09 / Fotolia

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**E**lectronic cigarettes, when used indoors, may involuntarily expose non-users to nicotine, according to a study led by Maciej Goniewicz, PhD, PharmD, of Roswell Park Cancer Institute (RPCI) and published by the journal *Nicotine and Tobacco Research*.

Electronic cigarettes (e-cigarettes) are consumer products designed to generate nicotine aerosol, or vapor, without the combustion of tobacco. When an e-cigarette user takes a puff, the nicotine solution is heated, and the vapor is taken into the lungs. Researchers examined e-cigarette vapor from three different brands of e-cigarettes using a smoking machine in controlled exposure conditions. They also compared secondhand smoke exposure of e-cigarette vapor and tobacco smoke generated by dual users.

Results showed that e-cigarettes emitted significant amounts of nicotine, but did not emit substantial amounts of carbon monoxide and toxic volatile organic compounds. The level of secondhand exposure to nicotine depended on the e-cigarette brand. Additionally, the emissions of nicotine from e-cigarettes were significantly lower than those of conventional tobacco cigarettes. The U.S. Surgeon General found that there is no safe level of secondhand tobacco smoke, but has not evaluated health risk from secondhand exposure to e-cigarette vapors.

"To our knowledge, this is one of the first studies to measure the air concentrations of nicotine and volatile organic compounds and compare the emissions from electronic and conventional tobacco cigarettes," said Dr. Goniewicz, a researcher and Assistant Professor of Oncology in RPCI's Department of Health Behavior. "Our data suggest

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that secondhand exposure to nicotine from e-cigarettes is on average 10 times less than from tobacco smoke. However, more research is needed to evaluate the health consequences of secondhand exposure to nicotine from e-cigarettes, especially among vulnerable populations including children, pregnant women and people with cardiovascular conditions."

Study observations also include: • This study focused on nicotine and a limited number of chemicals released from e-cigarettes. Future research should explore emissions and exposures to other toxins and compounds identified in e-cigarettes such as formaldehyde, acetaldehyde and acrolein. • Data also are needed to determine whether secondhand exposure to e-cigarette vapors results in reinforcement of nicotine addiction. • More research is needed to investigate whether the vapor from e-cigarettes is deposited on surfaces to form 'thirdhand' e-cigarette vapor.

"Questions remain regarding the health impact of e-cigarettes among smokers and nonsmokers. It remains unclear whether young people will see e-cigarette use as a social norm and if e-cigarettes will be used as sources of nicotine in places with smoking bans, thus circumventing tobacco-free laws," said Andrew Hyland, PhD, Chair of the Department of Health Behavior at RPH. "This study and others can guide policymakers as decisions are made about the regulation of the nicotine delivery devices."

#### Story Source:

The above story is based on materials provided by Roswell Park Cancer Institute. Note: Materials may be edited for content and length.

#### Journal Reference:

1. J. Czogala, M. L. Goniewicz, B. Fidelus, W. Zielinska-Danch, M. J. Travers, A. Sobczak. **Secondhand Exposure to Vapors From Electronic Cigarettes.** *Nicotine & Tobacco Research*, 2013; DOI: 10.1093/ntr/ntt203

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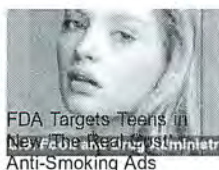
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## Featured Research

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## Electronic cigarettes are unsafe and pose health risks, study finds

Date: December 5, 2010

Source: University of California - Riverside

**Summary:** How safe are electronic cigarettes or "e-cigarettes"? To address this question, researchers evaluated five e-cigarette brands and found design flaws, lack of adequate labeling, and several concerns about quality control and health issues. They conclude that e-cigarettes are potentially harmful and urge regulators to consider removing e-cigarettes from the market until their safety is adequately evaluated.

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The image shows e-cigarette fluid leaking out of a cartridge, making it difficult to handle without touching the nicotine solution.

Credit: Talbot lab, UC Riverside.

**E**lectronic cigarettes (or e-cigarettes), also called "electronic nicotine delivery systems," are increasingly used worldwide even though only sparse information is available on their health effects. In the United States, e-cigarettes are readily available in shopping malls in most states and on the Internet. But how safe are e-cigarettes?

To address this question, researchers at the University of California, Riverside evaluated five e-cigarette brands and found design flaws, lack of adequate labeling, and several concerns about quality control and health issues. They conclude that e-cigarettes are potentially harmful and urge regulators to consider removing e-cigarettes from the market until their safety is adequately evaluated.

Unlike conventional cigarettes, which burn tobacco, e-cigarettes vaporize nicotine, along with other compounds present in the cartridge, in the form of aerosol created by heating, but do not produce the thousands of chemicals and toxicants created by tobacco combustion. Nothing is known, however, about the chemicals present in the aerosolized vapors emanating from e-cigarettes.

"As a result, some people believe that e-cigarettes are a safe substitute for conventional cigarettes," said Prue Talbot, the director of UC Riverside's Stem Cell Center, whose lab led the research. "However, there are virtually no scientific studies on e-cigarettes and their safety. Our study -- one of the first studies to evaluate e-cigarettes -- shows that this product has many flaws, which could cause serious public health problems in the future if the flaws go uncorrected."

Study results appear in this month's issue of *Tobacco Control*.

Talbot, a professor of cell biology and neuroscience, was joined in the study by Anna Trchounian, the first author of the research paper. Together, they examined the design, accuracy and clarity of labeling, nicotine content, leakiness, defective parts, disposal, errors in filling orders, instruction manual quality and advertizing for the

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## Nicotine Withdrawal Signs

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following brands of e-cigarettes: NJOY, Liberty Stix, Crown Seven (Hydro), Smoking Everywhere (Gold and Platinum) and VapCigs.

Their main observations are that:

- Batteries, atomizers, cartridges, cartridge wrappers, packs and instruction manuals lack important information regarding e-cigarette content, use and essential warnings;
- E-cigarette cartridges leak, which could expose nicotine, an addictive and dangerous chemical, to children, adults, pets and the environment;
- Currently, there are no methods for proper disposal of e-cigarettes products and accessories, including cartridges, which could result in nicotine contamination from discarded cartridges entering water sources and soil, and adversely impacting the environment; and
- The manufacture, quality control, sales, and advertisement of e-cigarettes are unregulated.

The study was funded by a grant to Talbot from the University of California Tobacco-Related Disease Research Program (TRDRP).

"More research on e-cigarettes is crucially needed to protect the health of e-cigarette users and even those who do not use e-cigarettes," said Kamlesh Asotra, a research administrator at UC TRDRP. "Contrary to the claims of the manufacturers and marketers of e-cigarettes being 'safe,' in fact, virtually nothing is known about the toxicity of the vapors generated by these e-cigarettes. Until we know any thing about the potential health risks of the toxins generated upon heating the nicotine-containing content of the e-cigarette cartridges, the 'safety' claims of the manufactureres are dubious at best.

"Justifiably, more information about the potential toxic and health effects of e-cigarette vapors is necessary before the public can have a definitive answer about the touted safety of e-cigarettes. Hopefully, in the near future, scientists can provide firm evidence for or against the claimed 'safety' of e-cigarettes as a nicotine-delivery tool."

### About electronic cigarettes:

E-cigarettes consist of a battery, a charger, a power cord, an atomizer, and a cartridge containing nicotine and propylene glycol. When a smoker draws air through an e-cigarette, an airflow sensor activates the battery that turns the tip of the cigarette red to simulate smoking and heats the atomizer to vaporize the propylene glycol and nicotine. Upon inhalation, the aerosol vapor delivers a dose of nicotine into the lungs of the smoker, after which, residual aerosol is exhaled into the environment.

### Story Source:

The above story is based on materials provided by University of California - Riverside. Note: Materials may be edited for content and length.

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University of California - Riverside. "Electronic cigarettes are unsafe and pose health risks, study finds." ScienceDaily. ScienceDaily, 5 December 2010. <www.sciencedaily.com/releases/2010/12/101203141932.htm>.

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Date: January 8, 2014

Source: Elsevier

**Summary:** Despite years of anti-smoking education and legislation, tobacco use still remains an important public health issue in the United States. In 2010, 25.2% of all adults and 35.6% of young adults reported current tobacco use. While anti-tobacco efforts continue across the country, the introduction of electronic cigarettes has been marketed as a less harmful alternative to cigarettes and also as a smoking cessation aid.

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Despite years of anti-smoking education and legislation, tobacco use still remains an important public health issue in the United States. In 2010, 25.2% of all adults and 35.6% of young adults reported current tobacco use. While anti-tobacco efforts continue across the country, the introduction of electronic cigarettes (e-cigarettes) has been marketed as a less harmful alternative to cigarettes and also as a smoking cessation aid.

E-cigarettes supply nicotine through inhaled water vapor. While the addictiveness and long-term effects of using e-cigarettes as a nicotine delivery system are unknown, many people anecdotally believe that they are safer than traditional tobacco products. According to a new study published in the February issue of the *American Journal of Preventive Medicine*, the belief that e-cigarettes pose less of a health risk may lead to increased experimentation with e-cigarettes among young adults.

Investigators from the Division of Epidemiology and Community Health, University of Minnesota looked at whether or not there was a relationship between perceived notions about the harmfulness of e-cigarettes relative to cigarettes and subsequent e-cigarette use among young adults. Investigators surveyed 1379 participants from the Minnesota Adolescent Community Cohort who had never used e-cigarettes. The initial baseline survey explored their opinions about e-cigarettes and their effect on health relative to cigarettes or their usefulness as an aid to stop smoking. Then, a follow-up survey conducted one year later asked participants if they had experimented with e-cigarettes.

"Participants who agreed e-cigarettes can help people quit smoking and those who agreed that e-cigarettes are less harmful than cigarettes were more likely than those who did not agree to subsequently report experimenting with e-cigarettes. These associations did not vary by gender or smoking status," says study lead author Kelvin Choi, PhD.

Specifically, the follow-up study found that 7.4% of participants who had never used an e-cigarette at baseline reported subsequently using an e-cigarette, with 21.6% among baseline current smokers, 11.9% among baseline former smokers, and 2.9% among baseline nonsmokers reporting use.

"The study showed that 2.9% of baseline nonsmokers in this U.S. regional sample of young adults reported ever using e-cigarettes at follow-up, suggesting an interest in e-cigarettes among nonsmoking young adults," explains Dr. Choi. "This is problematic because young adults are still developing their tobacco use behaviors, and e-cigarettes may introduce young adults to tobacco use, or promote dual use of cigarettes and smokeless tobacco products."

While the risks associated with long-term e-cigarette use are largely unknown, recent studies suggest that they can significantly increase plasma nicotine levels, which means they are potentially as addictive as cigarettes. "This study also suggested that about 12% of former young adults smokers at baseline were re-introduced to nicotine through e-cigarettes. Future prospective studies including adults of all ages are needed to confirm these findings related to e-cigarette use among nonsmokers and former smokers, and to determine the role of e-cigarettes on relapse of smoking," adds Dr. Choi.

This link between beliefs about e-cigarettes and subsequent experimentation can be used to guide future anti-nicotine and anti-smoking campaigns that encompass the new technology of e-cigarettes. "Understanding the specific beliefs that predict subsequent e-cigarette experimentation allows us to focus on these beliefs when

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designing public health messages," concludes Dr. Choi. "Results from this study suggest that messages about the lack of evidence on e-cigarettes being cessation aids, and the uncertainty of the risks associated with e-cigarette use may discourage young adults, particularly young adult nonsmokers and former smokers, from experimenting with e-cigarettes."

#### Story Source:

The above story is based on materials provided by Elsevier. Note: Materials may be edited for content and length.

#### Journal Reference:

1. Kelvin Choi, PhD; Jean L. Forster, PhD. Beliefs and Experimentation with Electronic Cigarettes: A Prospective Analysis Among Young Adults. *American Journal of Preventive Medicine*, February 2014

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# E-cigarettes' growing popularity poses danger to kids

Laura Ungar, The (Louisville, Ky.) Courier-Journal 6 a.m. EST January 5, 2014

*Scientists are raising concerns about the effects of e-cigarettes' "secondhand vapor" on children.*



(Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

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LOUISVILLE, Ky. -- Billed as a safer, cleaner way to get a nicotine fix, electronic cigarettes are surging in popularity. But some doctors and researchers say these smoking substitutes are far from harmless — especially to children.

More teens are trying these products, even as scientists increasingly raise concerns about the effects of e-cigarettes' "secondhand vapor" on children.

In addition, the liquid nicotine used in the devices, which comes in flavors such as bubblegum and cola, is being blamed for a growing number of poisonings across the nation.

"Accidental exposure by children to e-cigarettes is a public health concern that we need to take seriously," said LaQuandra Nesbitt, director of the Louisville Metro Department of Public Health and Wellness, which will soon recommend age restrictions on the devices. "Parents need to be aware of the potential dangers to their children."

The battery-operated units contain cartridges filled with nicotine, flavor and other chemicals, which are heated to create a vapor inhaled by the user. Starter kits can cost \$60-\$80, five-packs of cartridges can run around \$10, and sales of e-cigarettes have doubled to more than \$1.5 billion in the past year.

But problems among children also have risen.

Ashley Webb, director of the Kentucky Regional Poison Control Center of Kosair Children's Hospital, said the center received more than 40 calls involving e-cigarette poisonings in 2013, up from nine in 2012 and one in 2010. Nationally, there were 427 such exposures in 2012, according to the latest annual report from the National Poison Data System. Meanwhile, the 2012 National Youth Tobacco Survey shows that recent e-cigarette use nearly doubled in one year among U.S. high school students, rising from 1.5% in 2011 to 2.8% smoking them in 2012.

While Indiana prohibits sales of e-cigarettes to minors, Kentucky and the federal government do not. But a soon-to-be-released report from the Louisville health department recommends restricting the sale of e-cigarettes to Jefferson County minors.

The U.S. Food and Drug Administration is also considering whether to regulate e-cigarettes. The agency issued a warning in 2009 that the devices were being marketed to youth, but does not regulate the products unless they make therapeutic claims.

"It's really up to individual store owners not to sell to children," said Troy LeBlanc, owner of Derb E Cigs in Jeffersontown, who won't sell to anyone younger than 18. "I wouldn't be opposed to government age restrictions."

LeBlanc said e-cigarettes can be beneficial for adults, helping them quit tobacco smoking, which is documented to be more dangerous.

Ray Story, chief executive officer of the Tobacco Vapor Electronic Cigarette Association, agreed they're an effective smoking substitute, saying the industry designs and markets the devices for adults. He said the vapor is harmless, and it's up to adults to keep children from the e-liquid, which can sicken them.

"At the end of the day, everything's attractive to kids," Story said. "If you're an adult, it's a matter of choice. But we have to safeguard those who don't have the ability to safeguard themselves."

Webb said parents often don't think of nicotine as a poison, so they may leave liquid e-cigarette cartridges within reach of children.





The warning label on the e-cigarette fluid states "Must be 18 years or older to purchase, contains nicotine," and "Keep out of children's reach." (Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

Children are getting ahold of e-cigarettes and taking them apart, she said. "They either ingest the liquid or get it onto their skin. Even on the skin, the nicotine is absorbed."

She said toddlers and preschoolers sometimes lick the containers or drink the liquid, enticed by the flavoring.

"Kids will eat most anything," said George Rodgers, associate medical director of the poison control center.

Ingesting e-liquid can give children a harmful or even deadly dose of nicotine. Rodgers said many cartridges contain more than 14 milligrams, enough to cause harm.

"And since children are not used to consuming nicotine, their symptoms may be more severe at lower levels," he said.

Symptoms include hyperactivity, flushing, sweating, headache, dizziness, rapid heart rate, vomiting and diarrhea. Even small amounts on a child's skin can cause irritation and a burning sensation. In very severe cases, a child's heart rate and blood pressure may drop dangerously low, resulting in a coma or even death.

Webb said there have been no deaths so far among cases her center has handled, but children have ended up in the emergency room.

Story said his organization has pushed for safety packaging, and e-liquid refills come with tamper-evident caps.

LeBlanc said some of his products now come with child-resistant caps, and "we're transferring everything to child-resistant."

"All of our liquids have a warning on them to keep out of the reach of children," he added.

Jenny Haliski, an FDA spokeswoman, said federal regulations now apply only to conventional cigarettes and other tobacco products, but her agency is considering new rules that may cover e-cigarettes.

Stephen Wright, Kosair hospital's medical director, said people should be cautious.

"Since the industry is still so new, we don't yet know all of the long-term health effects of e-cigarettes to the user, in addition to any effects of secondhand vapor," he said. "We do know that not smoking anything — especially around children — is always the best bet."

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## E-Cigarettes Expose Non-Smokers To Significant Nicotine Emission; Dangers Remain Unknown

By Sabrina Bachai | Dec 15, 2013 03:23 PM EDT

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Currently, there are about four million Americans who use battery powered cigarettes, according to the Tobacco Vapor Electronic Cigarette Association.

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The battery-powered devices, however, may have negative effects for those who are around the person smoking.

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According a new study in the journal *Nicotine and Tobacco Research*, e-cigarette smoke exposes non smokers to significant amounts of nicotine through the air. The risks of second-hand nicotine remain unstudied, according to the study.

The study was conducted using three brands of e-cigarettes, and the researchers looked into what their smoke was releasing into the air. They found that the second-hand smoke had high concentrations of nicotine, but it did not contain other harmful chemicals. Scientists used a smoke machine to simulate the smoking of a cigarette, and measured the concentrations of nicotine and other compounds such as carbon monoxide. Five male participants were then asked to smoke both tobacco and e-cigarettes in a room that measured contaminant exposure. While the nicotine emissions were 10 times less in e-cigarettes versus regular tobacco, they still proved to be a significant source of second-hand exposure. But, unlike conventional cigarettes, carbon monoxide and other volatile compounds were not released.

The study backs up previous data gathered by the U.S. Food and Drug Administration (FDA). "The FDA report found nine contaminants versus the 11,000 contained in a tobacco cigarette, and noted that the level of toxicity was shown to be far lower than those of tobacco cigarettes," ABC News reported. Nevertheless, long-term use could still



(Shutterstock.) Smoking e-cigarettes could have negative effects for those exposed to second-hand smoke, however, the risks are only regarding nicotine exposure.

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pose a threat. Even though the threat of other chemical compounds is only present in a very limited fashion, inhaling nicotine may still pose health risks — we just don't know.

In a section of the study called "Unanswered Questions and Future Research," the authors call for a deeper analysis of whether secondhand nicotine inhalation could be harmful for at risk populations. "We found no publications on the cardiovascular effects of passive exposure to e-cigarette vapors or on the health effects of secondhand exposure to e-cigarette vapors among vulnerable population, including children, pregnant women, and people with cardiovascular conditions," the authors write.

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The American Cancer Society (ACS) believes that inhaling anything but natural air has side effects, but the organization is not quite sure how harmful these effects will be in the future. "Studies have shown that e-cigarettes can cause short-term lung changes that are much like those caused by regular cigarettes," the ACS writes on its website. "But long-term health effects are still unclear."

Source: Sobczak A, Travers M, Czogala J, et al. Secondhand Exposure to Vapors From Electronic Cigarettes. *Nicotine & Tobacco Research*. 2013.

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[ntr.oxfordjournals.org](http://ntr.oxfordjournals.org)

Nicotine Tob Res (2013) doi: 10.1093/ntr/ntt203

First published online: December 11, 2013

## Secondhand Exposure to Vapors From Electronic Cigarettes

Jan Czogala, PhD<sup>1</sup>, Maciej L. Goniewicz, PharmD, PhD<sup>1,2</sup>, Bartłomiej Fidelus, PharmD<sup>1</sup>, Wioleta Zielinska-Danch, PhD<sup>1</sup>, Mark J. Travers, PhD<sup>2</sup> and Andrzej Sobczak, PhD<sup>1,3</sup>

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Received July 5, 2013.

Accepted November 10, 2013.

### Abstract

**Introduction:** Electronic cigarettes (commonly referred as e-cigarettes) are designed to generate inhalable nicotine aerosol (vapor). When an e-cigarette user takes a puff, the nicotine solution is heated and the vapor taken into lungs. Although no sidestream vapor is generated between puffs, some of the mainstream vapor is exhaled by e-cigarette user. The aim of the study was to evaluate the secondhand exposure to nicotine and other tobacco-related toxicants from e-cigarettes.

**Materials and Methods:** We measured selected airborne markers of secondhand exposure: nicotine, aerosol particles (PM<sub>2.5</sub>), carbon monoxide, and volatile organic compounds (VOCs) in an exposure chamber. We generated e-cigarette vapor from 3 various brands of e-cigarette using a smoking machine and controlled exposure conditions. We also compared secondhand exposure with e-cigarette vapor and tobacco smoke generated by 5 dual users.

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concentrations of nicotine emitted by various brands of e-cigarettes ranged from 0.82 to 6.23 µg/m<sup>3</sup>. The average concentration of nicotine resulting from smoking tobacco cigarettes was 10 times higher than from e-cigarettes (31.60±6.91 vs. 3.32±2.49 µg/m<sup>3</sup>, respectively; *p* = .0081).

**Conclusions:** Using an e-cigarette in indoor environments may involuntarily expose nonusers to nicotine but not to toxic tobacco-specific combustion products. More research is needed to evaluate health consequences of secondhand exposure to nicotine, especially among vulnerable populations, including children, pregnant women, and people with cardiovascular conditions.

Tuesday, January 7, 2014

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## HEALTH

# Secondhand vapor from e-cigarettes contains nicotine but not other toxins: study

Whether electronic cigarettes are harmful to health continues to be a topic of debate, and smoking them indoors was recently banned in New York City. Now a new study finds vapor from e-cigs contains lower levels of nicotine than tobacco cigarettes and less harmful particulate matter.

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CHRISTOPHER FURLONG/GETTY IMAGES

**Public health experts are concerned that e-cigarettes may encourage more young people to smoke, but a new study finds that the secondhand effects of the vapor, at least, do not present the same health hazards as tobacco cigarettes.**

People standing near someone using an e-cigarette will be exposed to nicotine, but not to other chemicals found in tobacco cigarette smoke, according to a new study.

E-cigarettes, or electronic cigarettes, create a nicotine-rich vapor that can be inhaled, or 'vaped.'

Researchers and regulators have questioned whether e-cigarettes are a smoking cessation aid or may lure more young people toward smoking, as well as what effects they have on health.

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"There is ongoing public debate whether e-cigarettes should be allowed or prohibited in public spaces," study co-author Maciej Goniewicz told Reuters Health in an email.

Goniewicz is a cancer researcher in the Department of Health Behavior at the Roswell Park Cancer Institute in Buffalo, New York.

"E-cigarettes contain variable amounts of nicotine and some traces of toxicants. But very little is known to what extent non-users can be exposed to nicotine and other chemicals in situations when they are present in the same room with users of e-cigarettes," Goniewicz said.

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He and his colleagues conducted two studies of secondhand exposure to e-cigarette vapors in a laboratory. Their results were published in *Nicotine and Tobacco Research*.

In the first study, the researchers used an electronic smoking machine to generate vapor in an enclosed space. They measured the amount of nicotine as well as carbon monoxide and other potentially harmful gases and particles in the chamber.

The second study included five men who regularly smoked both tobacco cigarettes and e-cigarettes. Each man entered a room and smoked his usual brand of e-cigarette for two five-minute intervals over an hour while the researchers measured air quality. The room was cleaned and ventilated and the experiment was repeated with tobacco cigarettes.

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The researchers measured nicotine levels of 2.5 micrograms per cubic meter of air in the first study. Nicotine levels from e-cigarettes in the second study were slightly higher at about 3.3 micrograms per cubic meter. But tobacco cigarette smoking resulted in nicotine levels ten times higher at almost 32 micrograms per cubic meter.

"The exposure to nicotine is lower when compared to exposure from tobacco smoke. And we also know that nicotine is relatively safer when compared to other dangerous toxicants in tobacco smoke," Goniewicz said.

E-cigarettes also produced some particulate matter, but regular cigarettes produced about seven times more. E-cigarettes didn't change the amount of carbon monoxide or other gases in the air.

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"What we found is that non-users of e-cigarettes might be exposed to nicotine but not to many toxicants when they are in close proximity to e-cigarette users," said Goniewicz.

"It is currently very hard to predict what would be the health impact of such exposure," he added.

He said more research is needed to find out how the current findings correspond to "real-life" situations, when many people might be using e-cigarettes in a room with restricted ventilation.

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"This is an interesting piece and points in the direction that a number of other studies are pointing, though it begins to expand the evidence on the potential effects to others," Amy Fairchild told Reuters Health in an email.

Fairchild was not involved in the new research, but has studied how e-cigarette use might impact views on regular cigarettes at the Columbia University Mailman School of Public Health in New York.

She said the study suggests e-cigarettes are far safer, both in terms of toxins and nicotine, than tobacco cigarettes when it comes to the health effects on bystanders - although more research is needed to know for sure.

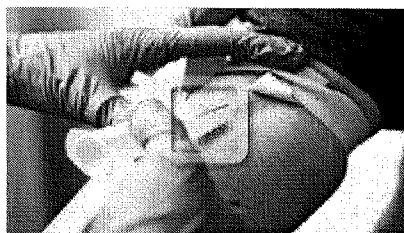
"In locales considering extending smoking bans to e-cigarettes, I think that these data weaken the case for more sweeping bans," Fairchild said. "And so this begins to answer the question about why e-cigarettes are considered better: they reduce risks to both the user and to the bystander when compared to tobacco cigarettes."

Fairfield said the concern about vaping ultimately revolves around whether e-cigarettes are going to change broader patterns of smoking at the population level.

"There are potential harms, including promoting continued smoking of cigarettes and renormalizing cigarette smoking behaviors," Goniewicz said. "Regulatory agencies around the world will need to make a number of regulatory decisions about product safety that could have major effects on public health."

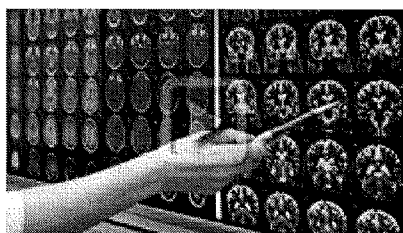
Goniewicz has received funding from a drug company that makes medications to aid smoking cessation. Another study author has received funds from an e-cigarette manufacturer.

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Hopes for a healthy cigarette may be nothing more than a pipe dream. A new study suggests that e-cigarettes may contain a level of carcinogens comparable to regular cigarettes.

In recent years, e-cigarettes have become a popular alternative for smokers. The devices use heat to vaporize nicotine but do not actually contain tobacco.

For smokers trying to kick their habit, or at least reduce health risks, e-cigarettes appeared to provide a desirable third way, allowing smokers to get their nicotine fixes while avoiding most of the health risks commonly associated with smoking, including cancer.

However, a report released in France's National Consumer Institute magazine on Monday says that many e-cigarettes actually contain "a significant quantity of carcinogenic molecules."

According to the study, researchers found that 3 in 10 e-cigarettes contain levels of formaldehyde and acrolein that are nearly equal to levels found in standard cigarettes.

"This is not a reason to ban them, but to place them under better control," National Consumer Institute's editor in chief Thomas Laurenceau said.

As The Wall Street Journal reports, the U.S. Food and Drug Administration is already considering new potential regulations for e-cigarettes, including a ban on online sales. Because e-cigarettes do not actually emit tobacco smoke, users have largely been able to avoid restrictions applied to traditional smokers.

On Tuesday, the Seal Beach, Calif., City Council announced it was placing a 45-day ban on e-cigarette vendors so the city could spend more time examining the potential health risks of the devices.

However, proponents of e-cigarettes say there is just as much, if not more, evidence suggesting that vaporized nicotine is not only less harmful, but has helped countless cigarette smokers give up their habit.

"I am a ex-smoker (35 years). I tried many times to quit with no success," Michael Evelliegh, owner of Oklahoma based Royal Vapor told Yahoo! News in an email interview. "E-cigs are the only thing that worked! Please know that the tobacco company's and their lobbyists are trying to discredit and confuse the issue," he said. "3 in 10 E-cigs contain levels of formaldehyde, which ones? What flavors? What nicotine level? These are vital to understanding if there is really a cause for concern or not."

The e-cigarette market has been booming. In 2012, the e-cigarette industry recorded more than \$1 billion in sales, with profits expected to reach \$10 billion within five years. Some estimate that e-cigarette sales could surpass traditional cigarette sales in the next few decades.

The Verge notes that a recent report from Wells Fargo pointed to the public's belief that e-cigarettes are healthier than traditional smoking as the reason behind their surge in popularity, describing their growth potential as a "promising opportunity" for investors.

"E-cigarettes are more than just a fad," reads an excerpt from the report. "E-Cigarettes' appeal stems from a variety of perceived advantages over traditional cigarettes, most commonly the perceptions that e-cigarettes are healthier, cheaper, and can be used almost anywhere."

However, the future of the e-cigarette industry could change with those potential FDA regulations coming as soon as this fall.

"It is true that more research is needed on the health effects of e-cigarettes," Mitch Zeller, director of the FDA's Center for Tobacco Products, told the WSJ. "However, we do not need more research on whether e-cigarettes should or should not be included in proposed FDA regulations."

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## E-cigarettes' perceived benefits may lead to higher experimentation rates

By ANI | ANI - 9 hours ago

Washington, Jan. 8 (ANI): Researchers have suggested that the belief that e-cigarettes pose less health risk could lead to

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Investigators from the Division of Epidemiology and Community Health, University of Minnesota surveyed 1379 participants from the Minnesota Adolescent Community Cohort who had never used e-cigarettes.

The initial baseline survey explored their opinions about e-cigarettes and their effect on health relative to cigarettes or their usefulness as an aid to stop smoking. Then, a follow-up survey conducted one year later asked participants if they had experimented with e-cigarettes.

Study lead author Kelvin Choi, PhD, said that participants who agreed e-cigarettes can help people quit smoking and those who agreed that e-cigarettes are less harmful than cigarettes were more likely than those who did not agree to subsequently report experimenting with e-cigarettes.

Specifically, the follow-up study found that 7.4 per cent of participants who had never used an e-cigarette at baseline reported subsequently using an e-cigarette, with 21.6 per cent among baseline current smokers, 11.9 per cent among baseline former smokers, and 2.9 per cent among baseline nonsmokers reporting use.

Choi said that the study showed that 2.9 per cent of baseline nonsmokers in this U.S. regional sample of young adults reported ever using e-cigarettes at follow-up, suggesting an interest in e-cigarettes among nonsmoking young adults.

A new study has been published in the American Journal of Preventive Medicine. (ANI)

## Tobacco Facts.

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# New York Moves Towards Total E-Cigarette Ban

Posted on [April 29, 2010](#) | [133 Comments](#)

The New York State Assembly has voted overwhelmingly 125-0 to ban e-cigarettes [e-cigs]; a product which has already been banned in Australia, Brazil, Canada, Israel, Mexico, and New Zealand, restricted in Finland, Malaysia, and Singapore, pending restriction in the UK as a drug, and the subject of law suits by attorneys general in several states, says public interest law professor John Banzhaf, Executive Director of Action on Smoking and Health (ASH).

The decision followed an email sent by Action on Smoking and Health (ASH) to New York's legislators seeking to correct misinformation they apparently received from marketers and others. ASH previously helped persuade New Jersey and Suffolk County, NY, to ban the use of e-cigarettes in no-smoking sections.

ASH's email noted that the FDA, the only agency both authorized and qualified to evaluate whether e-cigs are both safe and effective, has reported that e-cig use poses "acute health risks," that "the dangers posed by their toxic chemicals . . . cannot seriously be questioned," and that e-cigs have caused a wide variety of potentially serious problems "including racing pulse, dizziness, slurred speech, mouth ulcers, heartburn, coughing, diarrhea, and sore throat." It ruled they are "illegal"

Virtually all of the major national and well-respected medical and antismoking organizations have also voiced strong concerns about the risks posed by e-cigarettes, and urged restrictions on their sales. These include the American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, Americans for Nonsmokers' Rights, and the Association for the Treatment of [Tobacco Use](#) and Dependence.

ASH also pointed out that the FDA, in its own words, "is concerned that electronic cigarettes, cigars, or pipes may introduce young people to nicotine use which may lead to an increase in the use of conventional [tobacco products](#) with well-known, adverse, health consequences. Additionally, it is unclear what health effects these products could have on users or if misuse or product failure could lead to nicotine poisoning or other serious adverse health consequences."

The FDA also warned that "conference participants stressed the importance of parents being aware of the health and marketing concerns associated with e-cigarettes. It was stated that parents may want to tell their children and teenagers that these products are not safe to use. . . . Of particular concern to parents is that e-cigarettes are sold without any legal age restrictions, and are available in different flavors (such as chocolate, strawberry and mint) which may appeal to young people. . . . In addition, the devices do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes."



Although some users claim that the products helped them to quit smoking, ASH countered by citing the FDA's own findings: "at this time, we are not aware of any data establishing electronic cigarettes, cigars, or pipes as generally recognized among scientific experts as safe and effective. . . . There may be a perception among some users that electronic cigarettes, cigars, or pipes are safer alternatives to conventional tobacco products. There may also be a perception that these products are a safe and effective means to quit smoking conventional forms of tobacco. However, FDA is not aware of any scientific data to support those perceptions."

Michael Eriksen, ScD, the former director of CDC's Office of Smoking and Health and an FDA adviser warned: "I have seen no evidence that people switch from tobacco cigarettes to e-cigarettes or other smokeless tobacco products. If you look at how smokeless products are marketed, they are sold as something to use at times you can't smoke. The implication is you will increase nicotine exposure, not reduce smoking,"

ASH also raised concerns not yet addressed by the FDA: the extent to which the vapor exhaled by e-cig users — including propylene glycol (a respiratory irritant used in antifreeze and known to cause respiratory tract infections), nicotine (a deadly and addictive drug which can help trigger heart attacks), and other substances the FDA labels as "carcinogens" and "toxins" — could threaten the health of nearby nonsmokers.

ASH cited a typical reaction from a sensitive bystander: "My first exposure to e-cigarettes was last year in a hospital. Smokers were made to go outside but 3 e-smokers plus 2 staff were using the e-cigarettes inside . . . I have lupus and the vapor irritated my nose, eyes, throat, and chest, plus the nicotine was making me feel nauseous so there must have been significant quantities in the side-vapor."

ASH, America's first antismoking organization, and the one which started the nonsmokers' rights movement by first getting smoking restricted and ultimately banned on airplanes and in many public places, believes that nonsmokers should not be subjected to the vapors emitted by e-cig users unless and until they have conclusively been shown to be completely safe, even to children, the elderly, those at increased risk, and those with special medical problems.

Public interest law professor John Banzhaf of ASH, argues that there is no possible justification for subjecting the great majority of Americans who are nonsmokers to the totally unnecessary risks posed by a mixture of toxins and carcinogens. Even if e-cigarettes did help some smokers quit — which the FDA denies — "it's your monkey, keep him off my back."

PROFESSOR JOHN F. BANZHAF III  
Professor of Public Interest Law at GWU,  
FAMRI Dr. William Cahan Distinguished Professor,  
FELLOW, World Technology Network, and  
Executive Director and Chief Counsel  
Action on Smoking and Health (ASH)  
America's First Antismoking Organization  
2013 H Street, NW

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## Electronic cigarettes pose health risks, study finds

Date: 2010-12-03  
Contact: Iqbal Pittalwala  
Phone: (951) 827-6050  
Email: [iqbal@ucr.edu](mailto:iqbal@ucr.edu)

Electronic cigarettes (or e-cigarettes), also called "electronic nicotine delivery systems," are increasingly used worldwide even though only sparse information is available on their health effects. In the United States, e-cigarettes are readily available in shopping malls in most states and on the Internet. But how safe are e-cigarettes?

To address this question, researchers at the University of California, Riverside, evaluated five e-cigarette brands and found design flaws, lack of adequate labeling, and several concerns about quality control and health issues. They conclude that e-cigarettes are potentially harmful and urge regulators to consider removing e-cigarettes from the market until their safety is adequately evaluated.

Unlike conventional cigarettes, which burn tobacco, e-cigarettes vaporize nicotine, along with other compounds present in the cartridge, in the form of aerosol created by heating, but do not produce the thousands of chemicals and toxicants created by tobacco combustion. Nothing is known, however, about the chemicals present in the aerosolized vapors emanating from e-cigarettes.

"As a result, some people believe that e-cigarettes are a safe substitute for conventional cigarettes," said Prue Talbot, the director of UC Riverside's Stem Cell Center, whose lab led the research. "However, there are virtually no scientific studies on e-cigarettes and their safety. Our study — one of the first studies to evaluate e-cigarettes — shows that this product has many flaws, which could cause serious public health problems in the future if the flaws go uncorrected."

Study results appear in this month's issue of Tobacco Control.

Talbot, a professor of cell biology and neuroscience, was joined in the study by Anna Trtchounian, the first author of the research paper. Together, they examined the design, accuracy and clarity of labeling, nicotine content, leakiness, defective parts, disposal, errors in filling orders, instruction manual quality and advertizing for the following brands of e-cigarettes: NJOY, Liberty Stix, Crown Seven (Hydro), Smoking Everywhere (Gold and Platinum) and VapCigs.

Their main observations are that:

- Batteries, atomizers, cartridges, cartridge wrappers, packs and instruction manuals lack important information regarding e-cigarette content, use and essential warnings.
- E-cigarette cartridges leak, which could expose nicotine, an addictive and dangerous chemical, to children, adults, pets and the environment.
- Currently, there are no methods for proper disposal of e-cigarettes products and accessories, including cartridges, which could result in nicotine contamination from discarded cartridges entering water sources and soil, and adversely impacting the environment.
- The manufacture, quality control, sales, and advertisement of e-cigarettes are unregulated.

The study was funded by a grant to Talbot from the University of California Tobacco-Related Disease Research Program (TRDRP).

"More research on e-cigarettes is crucially needed to protect the health of e-cigarette users and even those who do not use e-cigarettes," said Kamlesh Asotra, a research administrator at UC TRDRP. "Contrary to the claims of the manufacturers and marketers of e-cigarettes being 'safe,' in fact, virtually nothing is known about the toxicity of the vapors generated by these e-cigarettes. Until we know any thing about the potential health risks of the toxins generated upon heating the nicotine-containing content of the e-cigarette cartridges, the 'safety' claims of the manufactureres are dubious at best.

"Justifiably, more information about the potential toxic and health effects of e-cigarette vapors is necessary before the public can have a definitive answer about the touted safety of e-cigarettes. Hopefully, in the near future, scientists can provide firm evidence for or against the claimed 'safety' of e-cigarettes as a nicotine-delivery tool."

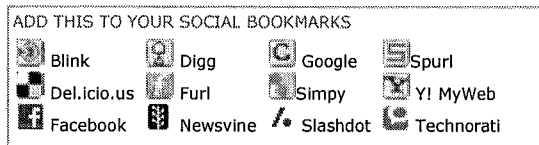
UC TRDRP supports research that focuses on the prevention, causes, and treatment of tobacco-related disease and the reduction of the human and economic costs of tobacco use in California.

About electronic cigarettes:

E-cigarettes consist of a battery, a charger, a power cord, an atomizer, and a cartridge containing nicotine and propylene glycol. When a smoker draws air through an e-cigarette, an airflow sensor activates the battery that turns the tip of the cigarette red to simulate smoking and heats the atomizer to vaporize the propylene glycol and nicotine. Upon inhalation, the aerosol vapor delivers a dose of nicotine into the lungs of the smoker, after which, residual aerosol is exhaled into the environment.

The University of California, Riverside ([www.ucr.edu](http://www.ucr.edu)) is a doctoral research university, a living laboratory for groundbreaking exploration of issues critical to Inland Southern California, the state and communities around the world.

Reflecting California's diverse culture, UCR's enrollment has exceeded 20,500 students. The campus will open a medical school in 2012 and has reached the heart of the Coachella Valley by way of the UCR Palm Desert Graduate Center. The campus has an annual statewide economic impact of more than \$1 billion.

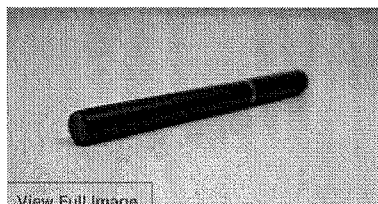


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Electronic cigarettes can be life-threatening for small children, caution experts, who noticed a recent surge in the number of children being rushed to the emergency room for accidentally ingesting the e-cigarette liquid.



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Electronic cigarettes pose poisoning risk to small children

"Accidental exposure by children to e-cigarettes is a public health concern that we need to take seriously," LaQuandra Nesbitt, director of the Louisville Metro Department of Public Health and Wellness, told USA TODAY. "Parents need to be aware of the potential dangers to their children."

Most of the products available in the market lack any child-resistant caps and contain high doses of nicotine. Even a low exposure to the nicotine in the e-cigarettes can cause adverse health outcomes including coma and death, USA TODAY [reported](#).

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Even though e-cigarettes haven't claimed any lives, there exist reports of a significant number of children seeking medical help for experiencing fast heartbeat, headache, vomiting, sweating, hyperactivity, flushing, dizziness and diarrhoea after swallowing the liquid.

E-cigarettes have always been a topic of discussion since it was first launched in the Chinese markets in 2004. The main purpose was helping people quit smoking.

They soon received wide attention and became very popular. According to the supporters, e-cigarettes are [safer than traditional cigarettes](#) as they provide less nicotine than the latter, and do not contain the cancer-causing toxins or produce harmful substances associated with smoking real cigarettes (tar and carbon monoxide).

However, they were not fully free from concerns. A team of American researchers reported recently that e-cigarettes cannot help stop smoking, on the other hand, can turn youngsters into [dual smokers](#), making them smoke more nicotine. Reports show that like the second-hand smoke associated with cigarettes, the e-cigarettes produce second-hand vapour that can irritate eyes, nose and throat.

However, latest [research](#) has also shown that the second-hand exposure to nicotine provided by e-cigarettes is 10 times lesser than the traditional cigarettes.

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# E-cigarettes' growing popularity poses danger to kids

Laura Ungar, The (Louisville, Ky.) Courier-Journal 6 a.m. EST January 5, 2014

Scientists are raising concerns about the effects of e-cigarettes' "secondhand vapor" on children.



(Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

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LOUISVILLE, Ky. -- Billed as a safer, cleaner way to get a nicotine fix, electronic cigarettes are surging in popularity. But some doctors and researchers say these smoking substitutes are far from harmless — especially to children.

More teens are trying these products, even as scientists increasingly raise concerns about the effects of e-cigarettes' "secondhand vapor" on children.

In addition, the liquid nicotine used in the devices, which comes in flavors such as bubblegum and cola, is being blamed for a growing number of poisonings across the nation.

"Accidental exposure by children to e-cigarettes is a public health concern that we need to take seriously," said LaQuandra Nesbitt, director of the Louisville Metro Department of Public Health and Wellness, which will soon recommend age restrictions on the devices. "Parents need to be aware of the potential dangers to their children."

The battery-operated units contain cartridges filled with nicotine, flavor and other chemicals, which are heated to create a vapor inhaled by the user. Starter kits can cost \$60-\$80, five-packs of cartridges can run around \$10, and sales of e-cigarettes have doubled to more than \$1.5 billion in the past year.

But problems among children also have risen.

Ashley Webb, director of the Kentucky Regional Poison Control Center of Kosair Children's Hospital, said the center received more than 40 calls involving e-cigarette poisonings in 2013, up from nine in 2012 and one in 2010. Nationally, there were 427 such exposures in 2012, according to the latest annual report from the National Poison Data System. Meanwhile, the 2012 National Youth Tobacco Survey shows that recent e-cigarette use nearly doubled in one year among U.S. high school students, rising from 1.5% in 2011 to 2.8% smoking them in 2012.

While Indiana prohibits sales of e-cigarettes to minors, Kentucky and the federal government do not. But a soon-to-be-released report from the Louisville health department recommends restricting the sale of e-cigarettes to Jefferson County minors.

The U.S. Food and Drug Administration is also considering whether to regulate e-cigarettes. The agency issued a warning in 2009 that the devices were being marketed to youth, but does not regulate the products unless they make therapeutic claims.

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## E-cigarettes' growing popularity poses danger to kids

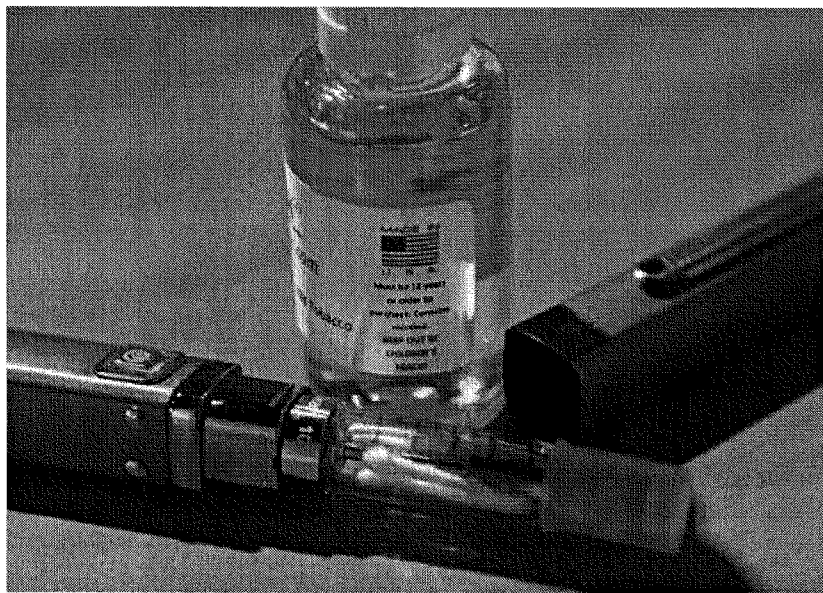
"It's really up to individual store owners not to sell to children," said Troy LeBlanc, owner of Derb E Cigs in Jeffersonton, who won't sell to anyone younger than 18. "I wouldn't be opposed to government age restrictions."

LeBlanc said e-cigarettes can be beneficial for adults, helping them quit tobacco smoking, which is documented to be more dangerous.

Ray Story, chief executive officer of the Tobacco Vapor Electronic Cigarette Association, agreed they're an effective smoking substitute, saying the industry designs and markets the devices for adults. He said the vapor is harmless, and it's up to adults to keep children from the e-liquid, which can sicken them.

"At the end of the day, everything's attractive to kids," Story said. "If you're an adult, it's a matter of choice. But we have to safeguard those who don't have the ability to safeguard themselves."

Webb said parents often don't think of nicotine as a poison, so they may leave liquid e-cigarette cartridges within reach of children.



The warning label on the e-cigarette fluid states "Must be 18 years or older to purchase, contains nicotine," and "Keep out of children's reach." (Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

Children are getting ahold of e-cigarettes and taking them apart, she said. "They either ingest the liquid or get it onto their skin. Even on the skin, the nicotine is absorbed."

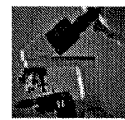
She said toddlers and preschoolers sometimes lick the containers or drink the liquid, enticed by the flavoring.

"Kids will eat most anything," said George Rodgers, associate medical director of the poison control center.

Ingesting e-liquid can give children a harmful or even deadly dose of nicotine. Rodgers said many cartridges contain more than 14 milligrams, enough to cause harm.

"And since children are not used to consuming nicotine, their symptoms may be more severe at lower levels," he said.

Symptoms include hyperactivity, flushing, sweating, headache, dizziness, rapid heart rate, vomiting and diarrhea. Even small amounts on a child's skin can cause irritation and a burning sensation. In very severe cases, a child's heart rate and blood pressure may drop dangerously low, resulting in a coma or even death.



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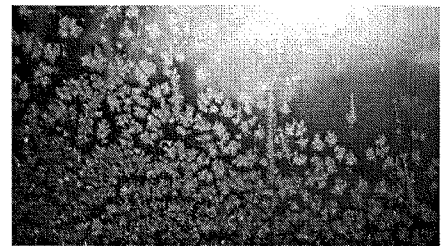


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Jan 07, 2014



## E-cigarettes' growing popularity poses danger to kids

Webb said there have been no deaths so far among cases her center has handled, but children have ended up in the emergency room.

Story said his organization has pushed for safety packaging, and e-liquid refills come with tamper-evident caps.

LeBlanc said some of his products now come with child-resistant caps, and "we're transferring everything to child-resistant."

"All of our liquids have a warning on them to keep out of the reach of children," he added.

Jenny Haliski, an FDA spokeswoman, said federal regulations now apply only to conventional cigarettes and other tobacco products, but her agency is considering new rules that may cover e-cigarettes.

Stephen Wright, Kosair hospital's medical director, said people should be cautious.

"Since the industry is still so new, we don't yet know all of the long-term health effects of e-cigarettes to the user, in addition to any effects of secondhand vapor," he said.

"We do know that not smoking anything — especially around children — is always the best bet."

SHARE

463

CONNECT

117

TWEET

(<https://twitter.com/intent/tweet?url=http://usat.ly/1dmsF5U&text=E-cigarettes'%20growing%20popularity%20poses%20d>

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**11. Are electronic cigarettes (e-cigarettes) safe to use?**

As the safety and efficacy of e-cigarettes have not been fully studied, consumers of e-cigarette products currently have no way of knowing whether e-cigarettes are safe for their intended use, how much nicotine or other potentially harmful chemicals are being inhaled during use, or if there are any benefits associated with using these products. Further research is needed to assess the potential public health benefits and risks of electronic cigarettes.

Currently, only e-cigarettes that are marketed for therapeutic purposes are regulated by the FDA Center for Drug Evaluation and Research.

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## REGULATION OF SMOKING

### § 92.20 DEFINITIONS.

**ADMINISTRATIVE AREA.** Any enclosed indoor area, under the control of an employer, to which employees, but not the general public, except by specific invitation, have access to during the course of employment, including, but not limited to, work areas, employee lounges, employee restrooms, conference rooms, and employee cafeterias.

**ADULTS ONLY ESTABLISHMENT.** Any place of business that limits its customers to individuals 18 years of age or older and that employs no one below the age of 18. Businesses of this category may include restaurants, bars, sports bars, billiard halls, bingo parlors, retail tobacco shops or other comparable businesses.

**AIR BARRIER.** A system that creates an air curtain to prevent the drift or penetration of tobacco smoke from a smoking area to a non-smoking area not allowing drift or penetration from the ceiling down to 24 inches above the floor.

**AIR PURIFICATION SYSTEM.** An electrically powered hospital grade, hepa media filter that will clean all of the air in a designated smoking area every 15 minutes as follows: not less than 95% of three-tenths (0.3) micron particulates efficiency including dust, smoke, pollen, mold spores, bacteria, tobacco smoke, viruses, and allergens and not less than 95% removal of gases, vapors, volatile organic compounds (V.O.C.) and odors and contains an air barrier system or other barrier system if required by a licensed professional engineer, to prevent air from the smoking area from being drawn across the non-smoking area.

**BAR.** An establishment licensed by the State of Texas for the sale of alcoholic beverages that derives more than 75% of the establishment's gross revenue from the on-premise sale of alcoholic beverages for on-premise consumption. For the purposes of this definition, gross revenue shall be calculated using the total amount of gross revenue received from the sale of alcoholic beverages and from the sale of food by the establishment for the preceding 12-month period. Such establishment shall make available to the city or its agents, during reasonable hours, its books and records for inspection if required by the city.

**BILLIARD HALL.** A place of amusement whose chief purpose is providing the use of billiard/pool tables to the public.

**BINGO PARLOR.** A facility regulated under V.C.S., Article 179d - "Bingo Enabling Act."

**BUS.** Every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxi cab, designed and used for the transportation of persons for compensation.

**BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making or non-profit purposes, including but not limited to, banks, laundromats, hotels, motels, retail establishments, professional corporations, and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

**CITY.** The City of Mansfield.

**EATING ESTABLISHMENT.** Any place where food is served for on-premises consumption and which is accessible by the public or a substantial group of the public.



**ELECTRONIC VAPING DEVICE.** Any electronically or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars, that provides a vapor derived from liquid nicotine and/or other substances which is intended to be inhaled by a user thereof. The term includes such devices generally manufactured to resemble cigarettes, cigars, pipes or other smoking devices, regardless of the details of the product design, appearance or marketed name, but excludes nebulizers or medical devices designed or prescribed for medical treatment.

**EMPLOYEE.** Any person, partnership, corporation, municipal corporation, non-profit entity, or other entity who employs the services of one or more individual persons.

**EMPLOYER.** Any person who employs the services of an individual person.

**ENCLOSED AREA.** An area closed in by a roof and walls with appropriate openings for ingress and egress.

**HEALTH FACILITY.** Any institution that provides medical, surgical, and overnight facilities for patients, including but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, dentists' offices, nursing homes, adult care facilities, convalescent homes, and residential treatment centers/homes.

**LIQUID NICOTINE.** Any liquid product composed of nicotine, propylene glycol, vegetable glycerin, flavoring and/or other substances manufactured for use with an electronic vaping device.

**MAJOR RENOVATION.** Changing the amount of floor space in a building by 1/3.

**MINOR.** Any person under 18 years of age.

**NET FLOOR AREA.** The total floor area of the interior of an eating establishment, excluding the kitchen, restrooms, storage areas, and offices.

**PERSON.** Any individual, partnership, cooperative, association, corporation, or venture.

**PHYSICAL BARRIER.** A barrier that will form an effective membrane continuous from outside wall to outside wall, from a smoke barrier to a smoke barrier, from floor to floor or roof above, or a combination thereof, including continuity through all concealed spaces, such as above suspended ceilings, interstitial structural and mechanical spaces. Transfer grilles, louvers and similar openings shall not be used in these partitions. Self closing, tight fitting doors are permitted in such barriers.

**PLACE OF EMPLOYMENT.** Any enclosed area under the control of an employer including but not limited to work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias and hallways. A private residence shall not be considered a **PLACE OF EMPLOYMENT**.

**PORTABLE AIR PURIFICATION SYSTEM.** A portable electrically powered hospital grade, hepa media filter that will clean all of the air in a designated smoking area every 15 minutes as follows: not less than 95% of three tenths (0.3) micron particulates efficiency including dust, smoke, pollen, mold spores, bacteria, tobacco smoke, viruses and allergens and not less than 95% removal of gases, vapors, volatile organic compounds (V.O.C.) and odors.

**PRIVATE CLUB.** Any building, premise or portion thereof which is permitted by the state and allowed by special use permit by the city as a private club for the storing, possession, and dispensing for on-premises consumption of alcoholic beverages. However, **PRIVATE CLUB** does not include a premise operated by an organization which is not available to and not customarily used by the general public and entry and

privileges thereto are established by regulations that are created by an organization distinct from a Texas Alcohol and Beverage private club membership.

**PRIVATE FUNCTION.** The rental of a ballroom, restaurant, private club, or other facility for the sole purpose of entertaining, private parties, events, or other social functions.

**PUBLIC BUSINESS.** Any deliberation between a quorum of members of any board, commission, department, committee or agency within the executive or legislative department of the State of Texas, or the City Council or any board or commission of the City of Mansfield at which any public business or public policy is discussed or considered or at which any formal action is taken.

**PUBLIC PLACE.** Any enclosed area in which the public is invited or permitted, including, but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a **PUBLIC PLACE**, nor is a facility while it is being used for a private function, such as a reception, party, and the like. Private clubs are not considered a **PUBLIC PLACE**.

**RESTAURANT.** Any place where food is manufactured, packaged, produced, processed, transported, stored, sold, commercially prepared, vended, or otherwise handled. The term includes any such place regardless of the duration of the permit or whether there is a charge for the food. The term includes, but is not limited to, a coffee shop, cafeteria, sandwich shop, private or public school cafeteria, and any other eating establishment that gives or offers food to the public, guests, or employees, including catering facilities. The term shall not include a cocktail lounge or tavern if the cocktail lounge or tavern is a "bar" as defined in this section. The term does not include private homes where food is prepared or served for guests and individual family consumption.

**RESTRICTED SMOKING MATERIAL.** Any substance, however marketed, which can reasonably be converted for smoking purposes whether it is presented as incense, tobacco, herbs, spices or any blend thereof if it includes any of the following chemicals or a comparable chemical:

- (1) Salvia divinorum or salvinorin A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts;
- (2) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47,497) and homologues;
- (3) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-211 or Dexanabinol);
- (4) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
- (5) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073); or
- (6) 1-pentyl-3-(4-methoxynaphthoyl)indole (also known as JWH-081).

Products containing some of the above substances are currently being marketed under the following commercial names: "K-2", "K-2 SUMMIT", "K-2 SEX", "GENIE", "DASCENTS", "ZOHAI", "SAGE", "SPICE", "KO KNOCK-OUT 2", "SPICE GOLD", "SPICE DIAMOND", "YUCATAN FIRE", "SOLAR FLARE", "PEP SPICE", "FIRE N'

ICE", AND "SALVIA DIVINORUM". It is anticipated by the Council that new products will be marketed under different names but will be subject to this definition if they contain any of the chemical components set forth above.

**RESTRICTED SMOKING MATERIAL PARAPHERNALIA.** Any paraphernalia, equipment or utensil that is used or intended to be used in ingesting or inhaling illegal smoking materials and may include:

- (1) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (2) A water pipe;
- (3) A carburetion tube or device;
- (4) A smoking or carburetion mask;
- (5) A chamber pipe;
- (6) A carburetor pipe;
- (7) An electric pipe;
- (8) An air-driven pipe;
- (9) A chillum;
- (10) A bong; or
- (11) An ice pipe or chiller.

For purposes of interpretation and enforcement, the term **USED** as found in this definition shall mean **CUSTOMARILY USED**.

**RETAIL OR SERVICE ESTABLISHMENT.** Any establishment which sells goods or services to the general public.

**RETAIL TOBACCO STORE.** A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of products is merely incidental.

**SELL.** To offer for sale, convey, exchange, barter, or trade.

**SERVICE LINE.** Any indoor line or area where persons wait for goods or service of any kind, regardless of whether or not an exchange of money will occur. Such service includes, but is not limited to, sales, giving of information, directions, advice, and the transfer of money or goods.

**SMOKING.** ~~Inhaling, exhaling, burning or carrying~~ The combustion of any lighted cigar, cigarette, pipe, tobacco product, weed, plant, or other combustible substance ~~whose smoke is intended to be inhaled~~ and the use of any ~~ecigarette~~ electronic vaping device as defined herein.

**SPORTS ARENA.** Sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

**TOBACCO PRODUCT.** Any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco, which may be utilized for smoking, chewing, inhalation or other manner of ingestion or absorption.

**TOBACCO SHOP.** A retail establishment whose annual gross revenues from the sale of tobacco products and smoking accessories are at least 50% of total revenue.

**TOBACCO VENDING MACHINE.** Any mechanical, electric or electronic self-serving device which, upon insertion of money, tokens, or any other form of payments, dispenses tobacco products.



**VALID IDENTIFICATION.** A valid driver's license or an identification card issued by the Department of Public Safety which contains a physical description and a photograph consistent with the person's appearance. The proof of identification may include a driver's license issued by Texas or another state, a passport, or an identification card issued by a state or the federal government.

**VENTILATION SYSTEM.** A HVAC system designed by a licensed professional engineer to meet the requirements of this subchapter and all other requirements of the city's building code. A ventilation system must provide an air change every 15 minutes; exhaust the air to the exterior of the building and the air from the smoking area cannot be drawn across the non-smoking area; and has an air barrier system, if required by a licensed professional engineer, to prevent air from the smoking area from being drawn across the non-smoking area.

**WORKPLACE.** Any enclosed area of a structure, or portion thereof, intended for occupancy by employees who provide primarily clerical, professional or business services of a business entity, or which provide primarily clerical, professional or business services to other business entities or to the public at that location.

('78 Code, § 9-81) (Ord. 741, passed 5-19-87; Am. Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09; Am. Ord. OR-1773-10, passed 6-28-10; Meeting Minutes 6-28-10)

## **§ 92.21 SMOKING PROHIBITED IN PUBLIC PLACES.**

### **(A) City-owned buildings.**

(1) All enclosed buildings owned or leased by the City of Mansfield shall be designated non-smoking with no designated smoking section, except as listed in division (A)(2) below.

(2) Jail cells located in city facilities used for the incarceration of prisoners may be designated as a smoking area at the discretion of the Director of Public Safety. All other areas shall be designated as non-smoking areas.

(B) *Places where smoking is prohibited.* A person commits an offense if he or she ~~smokes~~ is smoking or possesses a burning tobacco, weed, or other plant product in any of the following indoor or enclosed areas:

- (1) Public or private schools.
- (2) City buildings.
- (3) Public elevators and stairwells.
- (4) Buses, taxi cabs, and other means of public transportation.
- (5) All boarding and waiting areas of public transit depots.
- (6) Public restrooms, lobbies, reception areas, hallways and any other common use area.
- (7) Service lines and waiting queues, whether indoor or outdoor.
- (8) Retail or service establishments.
- (9) Businesses, including all areas available to and customarily used by the general public.
- (10) Aquariums, galleries, libraries, and museums.
- (11) Day care centers, except that day care centers that are also private homes shall be considered private residences when the children or adults receiving care have gone home.

(12) Every publicly or privately owned theater, auditorium or other enclosed facility which is open to the public for the primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event or any other performance or event, except when smoking is part of a stage production.

(13) Any portion of any publicly or privately owned area to which the public has access. This division (B)(13) section does not apply to private residences.

(14) Any seating area of any publicly or privately owned outdoor athletic facility.

(15) Health care facilities and hospitals.

(16) Hotels and motels, except as provided for in § 92.24(A)(2).

(17) Within 30 feet of any door, operable window/vent or other opening to an indoor enclosed area of a use listed above.

(18) Any seating area of any publicly or privately owned outdoor theater or amphitheater

(19) City parks and recreational facilities.

*(C) Exceptions.*

(1) An adults only establishment as defined in § 92.20 is exempt from the non-smoking provisions set forth above under the following circumstances:

(a) It must prohibit the entry of customers below the age of 18;

(b) It may have no employees or guests below the age of 18;

(c) It must prominently display a sign by all public entrances reflecting that this is an adults only establishment and that no one under 18 years of age is permitted within the establishment and that it permits smoking in all areas and that there are no non-smoking facilities contained within.

(2) A business establishment listed above under division (B) where smoking would otherwise be prohibited may construct a separate but contiguous facility of the same business where smoking is permitted. The facility must be separated from the non-smoking facility by a solid wall which extends from floor to ceiling, must have a separate entrance and must not share a common heating and air conditioning system which allows the passage of air from one facility to the other. It may have no employees or guests below the age of 18. The smoking portion of the business must display a sign at all public entrances reflecting that this is an adults only establishment and that no one under 18 years of age is permitted within the establishment and that smoking is permitted in all areas and that there are no non-smoking facilities contained within. A business establishment operating pursuant to this section may serve both the smoking and non-smoking dining areas from a single kitchen provided that the facility is designed and constructed in a manner that does not permit smoke from the smoking portion to pass through the kitchen to the non-smoking area. An establishment operating under this section may serve both the smoking and non-smoking areas from a single set of restrooms provided that they are located within the non-smoking portion of the establishment and the facility is designed and constructed in such a manner as to prevent smoke from the smoking area being drawn into the non-smoking area when patrons pass from one portion of the establishment to the other.

(3) It is an exception to division (B)(15) above that a hospital provide a room in which a patient may reside and smoke providing that all patients assigned to that room are agreeable and the administrator of the facility concurs with the designation. A room

placed in this status shall prominently display a sign which states: "Smoking is permitted in this room."

(D) *Defenses.* It is a defense to prosecution under this section that the conveyance or public place within which the offense occurred did not have prominently displayed a reasonably sized notice that smoking was prohibited.

('78 Code, § 9-82) (Ord. 741, passed 5-19-87; Am. Ord. 1309, passed 4-10-00; Am. Ord. OR-1737, passed 2-9-09)

## **§ 92.22 REGULATION OF SMOKING IN EATING ESTABLISHMENTS, NIGHTCLUBS, ADULT ENTERTAINMENT ESTABLISHMENTS, BILLIARD HALLS, BINGO PARLORS, AND BOWLING CENTERS.**

(A) A person commits an offense if he or she ~~smokes tobacco~~ is smoking or possesses a burning tobacco, weed or other plant product in an eating establishment, bar, night club, adult entertainment establishment, billiard hall, bingo parlor, or bowling center unless it operates in compliance with § 92.21(C).

(B) An owner, manager, or operator of an eating establishment, bar, night club, adult entertainment establishment, billiard hall, bingo parlor, or bowling center commits an offense if he or she allows smoking ~~of a tobacco product~~ in the establishment unless it operates in compliance with § 92.21(C).

(C) *Defenses.* It is a defense to a prosecution under division (A) above that the establishment did not have prominently displayed a reasonably sized notice that smoking was prohibited.

(D) *Existing businesses and facilities.* All businesses and facilities in operation on the effective date of Ordinance OR-1737-09 shall have 18 months from February 9, 2009 to be in compliance.

(E) *Owner/operator responsibility.*

(1) The owner, manager, or operator of an eating establishment, bar, night club, adult entertainment establishment, billiard hall, bingo parlor, or bowling center commits an offense if he or she designates or maintains a smoking area in violation of this subchapter.

(2) The owner or manager of an establishment governed by this subchapter commits an offense if he or she fails to post and maintain any signs required by this subchapter. ('78 Code, § 9-83) (Ord. 741, passed 5-19-87; Am. Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09) Penalty, see § 92.99

## **§ 92.23 REGULATION OF SMOKING IN THE WORKPLACE.**

(A) An employer who owns, occupies, or controls a workplace may:

(1) Have and implement a written policy on smoking which conforms to this subchapter.

(2) Make the policy available for inspection by employees and communicate the policy to all employees at least three weeks prior to its adoption.

(3) Prominently display reasonably sized signs that smoking is prohibited.

(4) Provide facilities in sufficient numbers in such locations as to be readily accessible for the extinguishment of smoking materials.

(5) Not discharge, retaliate, or discriminate against an employee who:



(a) Files a complaint or causes a proceeding to be instituted under or related to this subchapter;

(b) Testifies or will testify in a proceeding instituted under this subchapter; or

(c) Exercises on his or her own behalf or the behalf of others any right afforded by this subchapter.

('78 Code, § 9-84) (Ord. 741, passed 5-19-87; Am. Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09) Penalty, see § 92.99

#### **§ 92.24 WHERE SMOKING IS NOT REGULATED.**

(A) Notwithstanding any other provision of this subchapter to the contrary, the following areas shall not be subject to the smoking restrictions of this subchapter:

(1) Private residences, including porch and yard areas, except when used as a child care, adult day care or health care facility.

(2) Not more than 10% of hotel and motel rooms rented to guests shall be designated as smoking rooms. The following standards shall apply:

(a) All smoking rooms shall be on the same floor, shall be contiguous to the other smoking rooms and shall be configured and ventilated in a manner to restrict the smoke from these rooms from infiltrating into areas where smoking is prohibited under provisions of this subchapter;

(b) Separate ventilation and HVAC systems that prevent the commingling of air with other rooms, hallways and all other non-smoking areas shall be required; and

(c) The status of rooms as smoking or non-smoking may not be changed, except to add additional non-smoking rooms.

(3) Retail tobacco stores, where a retail store is utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. Separate ventilation and HVAC systems that prevent the commingling of air with other businesses, common areas, hallways and other non-smoking areas shall be required.

(4) Enclosed meeting or assembly rooms in restaurants, hotels, motels, and other public places while the entire room is being used for a private function provided it has a portable air purification system (defined in § 92.20).

(B) Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment described in this section may designate the entire establishment as a non-smoking establishment.

(Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09)

#### **§ 92.25 POSTING OF SIGNS; PLACING RECEPTACLES.**

(A) *Signs.* All signs shall be in letters not less than one inch high with a stroke of not less than 1/8-inch on a contrasting background.

(1) A place or conveyance regulated by § 92.21 that is required to be totally non-smoking shall have signs conspicuously posted at all public entrances which state: "No Smoking - City Ordinance."

(2) If a place or conveyance regulated by § 92.21(C) permits smoking, it shall post and maintain the sign required in § 92.21(C).

(B) *Receptacles.* A place, establishment or conveyance regulated by § 92.21(B) or § 92.22 which is partially or totally non-smoking shall have facilities for the

extinguishment of smoking materials located no farther than 30 feet or closer than 15 feet of all public entrances and within all designated smoking areas. The owner, manager, or operator of a place, conveyance or establishment commits an offense if he or she fails to post signs and provide extinguishment facilities as required by this section. ('78 Code, § 9-85) (Ord. 741, passed 5-19-87; Am. Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09)

#### **§ 92.26 EXEMPTIONS.**

Any owner or manager of a business, facility, room, structure, or other establishment existing on the effective date of Ordinance OR-1737-09 which is subject to §§ 92.21, 92.23 and 92.25 may apply for an exemption or modification to any provision of this subchapter due to unusual circumstances or conditions. Such exemption may be granted by the City Council, only if the evidence presented by the applicant for exemption demonstrates that:

(A) The applicant cannot comply with the provisions of this subchapter for which an exemption is requested without incurring expenses for structural or other physical modifications, other than posting signs, to buildings and structures; or

(B) Due to such unusual circumstances, the failure to comply with the provision for which the exemption is requested will not result in a danger to health or annoyance, inconvenience, or discomfort.

(Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09)

#### **§ 92.27 CULPABILITY.**

There shall be no requirement of a culpable mental state for a violation of this subchapter.

(Ord. 1309, passed 4-10-00; Am. Ord. OR-1737-09, passed 2-9-09)

#### **§ 92.28 RESTRICTED SMOKING MATERIALS; PURPOSE.**

The purpose of this section is to prohibit the sale or delivery of restricted smoking materials as defined herein to any individual below 21 years of age within the city limits of the City of Mansfield and to prohibit the possession of restricted smoking materials by any individual below 21 years of age within the city limits of the City of Mansfield. Any form of delivery to include a simple gift constitutes a violation of this subchapter.

(Ord. OR-1773-10, passed 6-28-10) Penalty, see § 92.99

#### **§ 92.29 SALE, DELIVERY, OFFER, OR GIFT.**

(A) It shall be unlawful for any person to sell, offer to sell, deliver to or to give any restricted smoking material to anyone below 21 years of age.

(B) For purposes of interpretation and enforcement, the term **SELL** as found in this section shall include "display for sale".

(Ord. OR-1773-10, passed 6-28-10; Meeting Minutes 6-28-10) Penalty, see § 92.99

#### **§ 92.30 USE OR POSSESSION OF RESTRICTED SMOKING MATERIAL.**

It shall be unlawful for any person below 21 years of age to have in their possession or to use restricted smoking materials within the corporate limits of the City of Mansfield.

(Ord. OR-1773-10, passed 6-28-10) Penalty, see § 92.99

**§ 92.31 USE OR POSSESSION OF RESTRICTED SMOKING PARAPHERNALIA.**

It shall be unlawful for any person to have in their possession any restricted smoking paraphernalia with the intent to use it, to ingest, inhale or otherwise consume restricted smoking material if they are below 21 years of age. If an individual below 21 years of age is found in possession of this type of paraphernalia it will be a violation of this subchapter if appropriate forensic testing is done on the paraphernalia and traces of restricted smoking material are present on the device.

(Ord. OR-1773-10, passed 6-28-10) Penalty, see § 92.99

**§ 92.32 LOCATION OF SALE OF RESTRICTED SMOKING MATERIAL AND RESTRICTED SMOKING PARAPHERNALIA.**

(A) It shall be unlawful for any person to sell, offer to sell, deliver or to give any restricted smoking material or restricted smoking paraphernalia to any person within 1,000 feet of the following:

- (1) A church;
- (2) A public or private elementary or secondary school;
- (3) A licensed day care center;
- (4) A public park, recreation center or water park; and
- (5) A public library.

(B) For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used for purpose of selling or delivering the restricted smoking material or restricted smoking paraphernalia to the nearest property line of the premises of a church, public or private elementary or secondary school, licensed day care center, public library, public park, recreation center or water park.

(C) For purposes of interpretation and enforcement, the term ***SELL*** as found in this section shall include "display for sale".

(Ord. OR-1773-10, passed 6-28-10; Meeting Minutes 6-28-10) Penalty, see § 92.99

**§ 92.33 DEFENSES TO PROSECUTION.**

(A) It shall be a defense to prosecution for a violation of this section if the use of the restricted smoking material is at the direction or under a prescription issued by a licensed physician or dentist authorized to prescribe controlled substances within the State of Texas.

(B) It shall be a defense to prosecution under the terms of this section if an individual charged with a violation can provide proper and complete historic documentation that the use of such materials is a portion of a religious undertaking or activity of a religious denomination in which they have long standing historic membership supported by documentation from clergy or spiritual leader recognized by the State of Texas.

(Ord. OR-1773-10, passed 6-28-10)

**§ 92.34 SALE OR DISTRIBUTION OF ELECTRONIC VAPING DEVICE AND LIQUID NICOTINE TO MINORS PROHIBITED.**



(A) A person commits an offense if the person sells, gives, transfers or otherwise causes to be sold or given an electronic vaping device or liquid nicotine to a minor or to another person who intends to deliver it to a minor.

(B) If an offense under this section occurs in connection with a sale or delivery of an electronic vaping device or liquid nicotine at a business by an employee of the business, the employee who commits the offense shall also be subject to prosecution in addition to the business.

(C) It is a defense to prosecution under this section that at the time of the sale or delivery of an electronic vaping device or liquid nicotine, the minor presented the person with an apparently valid identification showing that the minor was at least 18 years of age.

(D) It is not a defense to prosecution under this section that the minor purchased the electronic vaping device or liquid nicotine from a vending machine or other self-service merchandising machine if the machine was located on the premises of the person.

### **§ 92.35 POSSESSION OF ELECTRONIC VAPING DEVICES AND LIQUID NICOTINE BY MINORS PROHIBITED.**

(A) A minor commits an offense if the minor purchases, accepts, possesses or attempts to purchase, accept or possess an electronic vaping device or liquid nicotine.

(B) A minor commits an offense if the minor falsely represents himself or herself to be 18 years of age or older for purpose of purchasing or receiving an electronic vaping device and or liquid nicotine.

(C) It shall be a defense to prosecution under this section if at the time of the purchase, acceptance or possession, the minor is:

(1) in the presence of an adult parent, guardian or spouse, or other adult to whom the minor has been entrusted by a court;

(2) in the course and scope of the minor's employment by a person or entity in the distribution, wholesale or retail of electronic vaping devices or liquid nicotine, and the acceptance or possession of the electronic vaping device or liquid nicotine by the minor is part of the duties of such employment.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING REGULATIONS OF SMOKING IN CHAPTER 92, HEALTH AND SANITATION OF THE CODE OF ORDINANCES OF THE CITY OF MANSFIELD, TEXAS BY ADDING DEFINITIONS FOR “ELECTRONIC VAPING DEVICE” AND “LIQUID NICOTINE;” AMENDMING THE DEFINITION OF “SMOKING” TO INCLUDE ELECTRONIC VAPING DEVICES; PROHIBITING SMOKING AT CITY PARKS AND RECREATIONAL FACILITIES; PROHIBITING THE SALE AND DISTRIBUTION OF ELECTRONIC VAPING DEVICES AND LIQUID NICOTINE TO MINORS; AND PROHIBITING THE PROCESSION OF ELECTRONIC VAPING DEVICES AND LIQUID NICOTINE BY MINORS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Mansfield, Texas is a home-rule municipality located in Tarrant County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to its Charter; and

**WHEREAS**, the City Council has investigated and determined that electronic vaping devices permit users of the devices to inhale vapor containing variable amounts of nicotine and other harmful toxicants; and

**WHEREAS**, the City Council has further investigated and determined that exposure to electronic vaping devices by minors is a serious health concern; and

**WHEREAS**, the City Council has further investigated and determined that the 2012 National Youth Tobacco Survey shows that the use of electronic vaping devices by U.S. high school students has doubled from the previous year to 2.8%; and

**WHEREAS**, the City Council has further investigated and determined that medical and pharmacological experts have opined that electronic vaping devices contain nicotine in a liquid form that may escape from the devices and be ingested by minors which may cause symptoms such as hyperactivity, flushing, sweating, headache, dizziness, rapid heart rate, vomiting, diarrhea, burning and irritation of the skin and, in severe cases, may result in a coma or death; and

**WHEREAS**, the City Council has further investigated and determined that studies have shown that electronic vaping devices can serve as a “gateway” to smoking traditional tobacco products which are illegal for minors to purchase or possess; and

**WHEREAS**, the City Council has further investigated and determined that electronic vaping devices are currently not regulated by the State of Texas or the federal government; and

**WHEREAS**, the Food and Drug Administration (FDA) has joined other health experts to warn consumers about potential health risks associated with electronic vaping devices; and

**WHEREAS**, the FDA found that vapor samples from electronic vaping device contained toxic chemicals such as diethylene glycol, an ingredient used in antifreeze; and

**WHEREAS**, electronic vaping devices, when used indoors, may involuntarily expose non-users to nicotine according to a study published by the journal Nicotine and Tobacco Research; and

**WHEREAS**, there is no basis for any safety claim by the makers of electronic vaping devices that they present no health risk since electronic vaping devices as a relatively new product have not been adequately tested, and people should not be subject to secondhand vapor until the makers of such devices have proven them to be safe for everyone, including children, the elderly and individuals with health conditions; and

**WHEREAS**, electronic vaping devices may contain fruit and candy flavors that are appealing to youth.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS THAT:**

### **SECTION 1.**

The “REGULATIONS OF SMOKING” in Chapter 92, “HEALTH AND SANITATION” of the Code of Ordinances of the City of Mansfield, Texas are hereby amended by inserting the following new definitions in Section 92.20, “DEFINITIONS”:

**“ELECTRONIC VAPING DEVICE.** Any electronically or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars, that provides a vapor derived from liquid nicotine and/or other substances which is intended to be inhaled by a user thereof. The term includes such devices generally manufactured to resemble cigarettes, cigars, pipes or other smoking devices, regardless of the details of the product design, appearance or marketed name, but excludes nebulizers or medical devices designed or prescribed for medical treatment.”

**“LIQUID NICOTINE.** Any liquid product composed of nicotine, propylene glycol, vegetable glycerin, flavoring and/or other substances manufactured for use with an electronic vaping device.”

## **SECTION 2.**

The aforementioned Section 92.20 “DEFINITIONS” in “REGULATIONS OF SMOKING” is hereby further amended by amending the definition of “SMOKING” to read as follows:

“**SMOKING.** The combustion of any cigar, cigarette, pipe, tobacco product, weed, plant, or other combustible substance and the use of any electronic vaping device as defined herein.”

## **SECTION 3.**

Paragraph B of Section 92.21 “SMOKING PROHIBITED IN PUBLIC PLACES” is hereby amended to read as follows:

“(B) *Places where smoking is prohibited.* A person commits an offense if he or she is smoking or possesses a burning tobacco, weed, or other plant product in any of the following indoor or enclosed areas:”

## **SECTION 4.**

Paragraph B of Section 92.21 “SMOKING PROHIBITED IN PUBLIC PLACES” is hereby further amended by inserting new subparagraphs 18 and 19 to read as follows:

“(18) Any seating area of any publicly or privately owned outdoor theater or amphitheater.

(19) City parks and recreational facilities.”

## **SECTION 5.**

Paragraphs A and B of Section 92.22 “REGULATION OF SMOKING IN EATING ESTABLISHMENTS, NIGHTCLUBS, ADULT ENTERTAINMENT ESTABLISHMENTS, BILLIARD HALLS, BINGO PARLORS, AND BOWLING CENTERS” are hereby amended to read as follows:

“(A) A person commits an offense if he or she is smoking or possesses a burning tobacco, weed or other plant product in an eating establishment, bar, night club, adult entertainment establishment, billiard hall, bingo parlor, or bowling center unless it operates in compliance with § 92.21(C).”

“(B) An owner, manager, or operator of an eating establishment, bar, night club, adult entertainment establishment, billiard hall, bingo parlor, or bowling center commits an offense if he or she allows smoking in the establishment unless it operates in compliance with § 92.21(C).”



## **SECTION 6.**

The “REGULATIONS OF SMOKING” in Chapter 92, “HEALTH AND SANITATION” of the Code of Ordinances of the City of Mansfield, Texas are hereby further amended by inserting new Sections 92.34 and 92.35 at the end thereof to read as follows:

### **“§ 92.34 SALE OR DISTRIBUTION OF ELECTRONIC VAPING DEVICE AND LIQUID NICOTINE TO MINORS PROHIBITED.**

(A) A person commits an offense if the person sells, gives, transfers or otherwise causes to be sold or given an electronic vaping device or liquid nicotine to a minor or to another person who intends to deliver it to a minor.

(B) If an offense under this section occurs in connection with a sale or delivery of an electronic vaping device or liquid nicotine at a business by an employee of the business, the employee who commits the offense shall also be subject to prosecution in addition to the business.

(C) It is a defense to prosecution under this section that at the time of the sale or delivery of an electronic vaping device or liquid nicotine, the minor presented the person with an apparently valid identification showing that the minor was at least 18 years of age.

(D) It is not a defense to prosecution under this section that the minor purchased the electronic vaping device or liquid nicotine from a vending machine or other self-service merchandising machine if the machine was located on the premises of the person.

### **§ 92.35 POSSESSION OF ELECTRONIC VAPING DEVICE AND LIQUID NICOTINE BY MINORS PROHIBITED.**

(A) A minor commits an offense if the minor purchases, accepts, possesses or attempts to purchase, accept or possess an electronic vaping device or liquid nicotine.

(B) A minor commits an offense if the minor falsely represents himself or herself to be 18 years of age or older for purpose of purchasing or receiving an electronic vaping device and or liquid nicotine.

(C) It shall be a defense to prosecution under this section if at the time of the purchase, acceptance or possession, the minor is:

(1) in the presence of an adult parent, guardian or spouse, or other adult to whom the minor has been entrusted by a court;

(2) in the course and scope of the minor’s employment by a person or entity in the distribution, wholesale or retail of electronic vaping devices or liquid nicotine, and the acceptance or possession of the electronic vaping device or liquid nicotine by the minor is part of the duties of such employment.”

## **SECTION 7.**

Section 92.99 “PENALTY” in Chapter 92, “HEALTH AND SANITATION” of the Code of Ordinances of the City of Mansfield, Texas is hereby amended by deleting Paragraph D and amending Paragraph B to read as follows:

“(B) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of, §§ 92.20 through 92.35 shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.”

#### **SECTION 8.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

#### **SECTION 9.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

#### **SECTION 10.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**David L. Cook, Mayor**

ATTEST:

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**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

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**Allen Taylor**, City Attorney



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0850

**Agenda Date:** 3/24/2014

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - Authorization of Funding for an Amount not to Exceed \$106,000 and Approval of Contracts, to include Bannister Engineering, for Design Services for Antler Drive Improvements (MEDC)

**Requested Action**

The authorization of funds for an amount not to exceed \$106,000 to prepare this project for public bidding. To authorize the President of the MEDC Board to execute contracts including Bannister Engineering

**Recommendation**

Staff recommends the authorization of funding and the approval of contracts including Bannister Engineering for design services for the Antler Drive Improvements.

**Description/History**

On March 4th, 2014 the MEDC Board voted 6 to 0 to authorize funding and the approval of contracts, including Bannister Engineering, for the extension of Antler Drive to FM 917 for an amount not to exceed \$106,000.

**Justification**

The extension of Antler Drive to FM 917 will provide access to an additional 40 + acres of industrial land, including approximately 6 acres of land owned by MEDC. This will help attract additional industrial companies to Mansfield

**Funding Source**

4A

**Prepared By**

Richard Nevins, Assistant Director, Economic Development 817-453-1006



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING FUNDING AND APPROVING A CONTRACT WITH BANNISTER ENGINEERING FOR DESIGN SERVICES FOR ANTLER DRIVE IMPROVEMENTS**

**WHEREAS**, the City Council recognizes the need to proceed forward with the design for the Antler Drive Improvements for the benefit of the citizens of the City of Mansfield; and,

**WHEREAS**, the City Staff has reviewed proposals for the Antler Drive Improvements; and,

**WHEREAS**, the Mansfield Economic Development Corporation Board has approved Staff to contract with Bannister Engineering for design services; and,

**WHEREAS**, the Mansfield Economic Development Corporation Board has approved funding in the amount of One Hundred Six Thousand and 00/100 Dollars (\$106,000.00) to prepare this project for public bidding and construction.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THAT:**

**SECTION 1.**

Funding is hereby authorized in the amount of One Hundred Six Thousand and 00/100 Dollars (\$106,000.00) to prepare this project for public bidding and construction.

**SECTION 2.**

The President of the MEDC is hereby authorized to execute necessary contracts to prepare this project for public bidding to include Bannister Engineering for Design Services.

PASSED AND APPROVED THIS THE 24th DAY OF MARCH, 2014.

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**David Cook, Mayor**

ATTEST:

---

**Vicki Collins, City Secretary**





Antler Dr. Extension







# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0851

**Agenda Date:** 3/24/2014

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

### Title

Resolution - Authorization of Funding for an Amount not to Exceed \$50,000 and Approval of Contracts to include Charles Crook Consulting for Design Services for the Mitchell Road Improvements (MEDC)

### Requested Action

The authorization of funds for an amount not to exceed \$50,000 to prepare this project for public bidding. To authorize the President of MEDC to execute contracts including Charles Crook Consulting for design services.

### Recommendation

Staff recommends the authorization of funding and approval of contracts including Charles Crook Consulting for design services for Mitchell Road Improvements.

### Description/History

On March 4, 2014, the MEDC Board voted 6 to 0 to authorize funding and the approval of contracts, including Charles Crook Consulting, for design services to prepare this project for public bidding, for an amount not to exceed \$50,000.

### Justification

MEDC owns approximately 8 acres of land at the corner of Mitchell Road and Heritage Parkway. Improving Mitchell Road will enhance the desirability of the MEDC property for future industrial users by providing truck access on the west side of the property.

### Funding Source

4A

### Prepared By

Richard Nevins, Assistant Director, Economic Development 817-453-1006

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING FUNDING AND APPROVING A CONTRACT WITH CHARLES CROOK CONSULTING FOR DESIGN SERVICES FOR MITCHELL DRIVE IMPROVEMENTS**

**WHEREAS**, the City Council recognizes the need to proceed forward with the design for the Mitchell Road Improvements for the benefit of the citizens of the City of Mansfield; and,

**WHEREAS**, the City Staff has reviewed proposals for the Mitchell Road Improvements; and,

**WHEREAS**, the Mansfield Economic Development Corporation Board has approved Staff to contract with Charles Crook Consulting for design services; and,

**WHEREAS**, the Mansfield Economic Development Corporation Board has approved funding in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) to prepare this project for public bidding and construction.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THAT:**

**SECTION 1.**

Funding is hereby authorized in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) to prepare this project for public bidding and construction.

**SECTION 2.**

The President of the MEDC is hereby authorized to execute necessary contracts to prepare this project for public bidding to include Charles Crook Consulting for Design Services.

PASSED AND APPROVED THIS THE 24th DAY OF MARCH, 2014.

---

**David Cook, Mayor**

ATTEST:

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**Vicki Collins, City Secretary**





## Mitchell Rd. Reconstruction





# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0845

**Agenda Date:** 3/24/2014

**Version:** 1

**Status:** First Reading

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

**Title**

Ordinance - Public Hearing and First Reading of an Ordinance Revising the Water Conservation and Drought Contingency Sections of Ordinance 1384 "Water Demand Management / Drought Contingency Plan"

**Requested Action**

Staff request City Council approval of the attached revision to the "Water Demand Management / Drought Contingency Plan".

**Recommendation**

Staff recommends that the attached versions of the water conservation and drought contingency plans be adopted by council.

**Description/History**

On March 11, 2002, council adopted a Water Demand Management Plan (Ordinance 1384). The Plan consisted of two parts: The Water Conservation Plan and a Drought Contingency Plan.

The Water Conservation Plan describes how water consumption will be managed all of the time. The Drought Contingency Plan describes what actions will be taken during periods of drought.

On May 27, 2008, council revised the Water Conservation Plan to align with regional efforts to communicate the need for efficient resource utilization. TRWD, with the assistance of its customer cities, created a model conservation plan. The model plan was adopted (with very few modifications) by Fort Worth, Arlington, and Mansfield.

Staff is not recommending any major modifications to the plan that council adopted in 2008.

On October 8, 2007, council revised the Drought Contingency Plan to align with regional efforts to respond to drought conditions and reduced availability of water. TRWD, with the assistance of its customer cities, created a model drought plan. The model plan was adopted (with very few modifications) by Fort Worth, Arlington, and Mansfield.

Proposed changes to the plan include clear triggers for coming out of a drought stage.

**Justification**

The City of Mansfield is required to submit an updated plan to the Texas Commission on Environmental Quality by May 1, 2014.

**Funding Source**

Not applicable

**Prepared By**

Joe Smolinski  
Director of Utilities  
City of Mansfield

817-477-2248

joe.smolinski@mansfield-tx.gov

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



**E-MAILED**  
MAR - 6 2014

03-06-14A10:22 RCVD

Mayor Cook/IA  
Mr. Chandler, CM/KW  
Chris Burkett, ACM  
Joe Smolinski

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 28, 2014

### **Re: Water Conservation Plan/Water Conservation Implementation Report/ Drought Contingency Plan**

The purpose of this letter is to remind you of the obligation to comply with Texas Commission on Environmental Quality (TCEQ) rules.

Certain water right holders, retail and wholesale public water suppliers, and irrigation districts are required to submit a Water Conservation Plan (WCP), a Water Conservation Implementation Report (WCIR), or a Drought Contingency Plan (DCP) to the TCEQ by May 1, 2014. The plans and the report are required by Texas Water Code §11.1271, §11.1272, and TCEQ rules in 30 Texas Administrative Code § 288.30. TAC 288.30 also requires some entities to provide a copy of the WCP to the Texas Water Development Board.

The table below provides the requirements that apply to the following entities.

Entity	Requirements
Surface water rights holder w/ 1,000 acre-feet for municipal, industrial, and other non-irrigation uses	Submit a WCP/ WCIR to TCEQ Provide a copy of the WCP to the TWDB
Surface water rights holder w/ 10,000 acre-feet for irrigation uses	Submit a WCP/ WCIR to TCEQ Provide a copy of the WCP to the TWDB
Retail Public Water Supplier w/ 3,300 or more connections	Submit a DCP to TCEQ
Wholesale Public Water Supplier	Submit a DCP to TCEQ
Irrigation District	Submit a DCP to TCEQ

Please submit the required plans and report by **May 1, 2014** to [wcp@tceq.texas.gov](mailto:wcp@tceq.texas.gov). Or mail the report to:

Texas Commission on Environmental Quality  
Resource Protection Team, MC-160  
P.O. Box 13087  
Austin, TX 78711-3087

drought



Please note that failure to respond by the May 1 deadline is a violation of the Texas Water Code and the TCEQ's rules and may result in enforcement action.

For additional information, please contact TCEQ Resource Protection staff at (512) 239-4691 or visit our website at [www.tceq.texas.gov/permitting/water\\_rights/conserv.html](http://www.tceq.texas.gov/permitting/water_rights/conserv.html).

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Loft", written over a faint, illegible background.

Chris Loft, Team Leader  
Resource Protection Team  
Water Availability Division  
Texas Commission on Environmental Quality

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING THE WATER CONSERVATION AND DROUGHT CONTINGENCY SECTIONS OF THE WATER DEMAND MANAGEMENT / DROUGHT CONTINGENCY PLAN.**

**WHEREAS**, the City of Mansfield, Texas (the “City”), recognizes that the amount of water available to its water customers is limited; and

**WHEREAS**, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

**WHEREAS**, the Water Code and the regulations of the Texas Commission on Environmental Quality (the “Commission”) require that the City adopt a Water Conservation Plan; and

**WHEREAS**, the Water Code and the regulations of the Texas Commission on Environmental Quality (the “Commission”) require that the City adopt a Drought Contingency Plan; and

**WHEREAS**, the City has determined an urgent need in the best interest of the public to adopt Water Conservation and Drought Contingency Plans that mirror an area wide effort to educate water users and preserve an invaluable resource during times of drought; and

**WHEREAS**, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such Ordinances necessary to preserve and conserve its water resources; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS; THAT:

**Section 1.** The City Council hereby approves and adopts the Water Conservation Plan, attached hereto as Addendum A, as if recited verbatim herein. The City commits to implement the requirements and procedures set forth in the adopted Water Conservation Plan.

**Section 2.** The City Council hereby approves and adopts the Drought Contingency Plan, attached hereto as Addendum B, as if recited verbatim herein. The City commits to implement the requirements and procedures set forth in the adopted Drought Contingency Plan.

**Section 3.** The Water Conservation and Drought Contingency Plans are collectively referred to as the Water Demand Management Plan (the “Plan”).

**Section 4.** Any customer, defined pursuant to 30 Tex. Admin. Code Chapter 291, failing to comply with the provisions of the Plan shall be subject to a fine of up to two thousand dollars (\$2,000.00) and/or discontinuance of water service by the City. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a

customer fails to comply with the Plan is a separate violation. The City's authority to seek injunctive or other civil relief available under the law is not limited by this section.

**Section 5.** The City Council does hereby find and declare that sufficient written notice of the date, hour, place and subject of the meeting adopting this Ordinance was posted at a designated place convenient to the public for the time required by law preceding the meeting, that such place of posting was readily accessible at all times to the general public, and that all of the foregoing was done as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the posting thereof.

**Section 6.** Should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected.

**Section 7.** The City Manager or his designee is hereby directed to file a copy of the Plan and this Ordinance with the Commission in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

**Section 8.** The City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this ordinance as an alternative method of publication provided by law.

**Section 9.** Ordinance No. 1384, adopted on March 11, 2002, is hereby amended.

First read approved on the 24<sup>th</sup> day of March, 2014

Second read approved on the 14<sup>th</sup> day of April, 2014

Passed by the City Council on this 29<sup>th</sup> day of April, 2014.

---

Mayor David Cook

Attest:

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City Secretary, Vicki Collins

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## **APPENDICES**

<b>APPENDIX A</b>	<b>Texas Commission on Environmental Quality Rules on Municipal Water Conservation Plans</b> <ul style="list-style-type: none"><li>• Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter A, Rule §288.1 – Definitions (Page B-1)</li><li>• Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter A, Rule §288.2 – Water Conservation Plans for Municipal Uses by Public Water Suppliers (Page B-4)</li></ul>
<b>APPENDIX B</b>	<b>Form for Water Utility Profile and Water Conservation Report</b>
<b>APPENDIX C</b>	<b>Letter to Region C Water Planning Group</b>

# **Water Conservation Plan**

## **1. INTRODUCTION AND OBJECTIVES**

Having a dependable water supply has always been a key issue in the development of Texas. The growing population and economic expansion occurring in North Central Texas are placing increased demands on our water supplies. In order to meet the challenge of providing for our current and future needs we must learn to use the water we already have more efficiently. By stretching our existing supplies we can delay the need for new supplies, minimize the environmental impacts associated with developing new water resources, and postpone the high cost of building the infrastructure (dams, treatment facilities, and pipelines) necessary to capture, treat, and transport the additional water into our homes and businesses.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation plans for public water suppliers. TCEQ guidelines and requirements are included in Appendix A. The City of Mansfield has developed this water conservation plan in response to TCEQ guidelines and requirements.

The objectives of this water conservation plan are as follows:

- To reduce water consumption from the levels that would prevail without conservation efforts.
- To reduce the loss and waste of water.
- To improve efficiency in the use of water.
- To extend the life of current water supplies by reducing the rate of growth in demand.
- To educate the citizens of Mansfield about the need for water conservation and the benefits of conserving our most valued natural resource.

## **2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES**

The TCEQ rules governing development of water conservation plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code, which is included in Appendix B. For the purpose of these rules, a water conservation plan is defined as “A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water.” The elements in the TCEQ water conservation rules covered in this conservation plan are listed below.

### Minimum Conservation Plan Requirements

The minimum requirements in the Texas Administrative Code for Water Conservation Plans for Public Water Suppliers are covered in this report as follows:

- 288.2(a)(1)(A) – Utility Profile – Section 3 and Appendix B
- 288.2(a)(1)(C) – Specification of Goals – Section 4
- 288.2(a)(1)(D) – Accurate Metering – Sections 5.1 and 5.2
- 288.2(a)(1)(E) – Universal Metering – Section 5.2
- 288.2(a)(1)(F) – Determination and Control of Unaccounted Water – Section 5.4
- 288.2(a)(1)(G) – Public Education and Information Program – Section 6
- 288.2(a)(1)(H) – Non-Promotional Water Rate Structure – Section 7
- 288.2(a)(1)(I) – Reservoir System Operation Plan – Section 8.1
- 288.2(a)(1)(J) – Means of Implementation and Enforcement – Section 9
- 288.2(a)(1)(K) – Coordination with Regional Water Planning Group – Section 8.6 and Appendix C

### Conservation Additional Requirements (Population over 5,000)

The Texas Administrative Code includes additional requirements for water conservation plans for cities with a population over 5,000:

- 288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting – Sections 5.4, 5.5, and 5.6
- 288.2(a)(2)(B) – Record Management System – Section 5.3
- 288.2(a)(2)(C) – Requirement for Water Conservation Plans by Wholesale Customers – Section 8.5

### Additional Conservation Strategies

TCEQ rules also list additional optional but not required conservation strategies, which may be adopted by suppliers. The following optional strategies are included in this plan:

- 288.2(a)(3)(A) – Conservation Oriented Water Rates – Section 7
- 288.2(a)(3)(B) – Ordinances, Plumbing Codes or Rules on Water-Conserving Fixtures – Section 8.3
- 288.2(a)(3)(D) – Reuse and Recycling of Wastewater – Section 8.2
- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 8.4
- 288.2(a)(3)(G) – Monitoring Method – Section 5.6



### **3. WATER UTILITY PROFILE**

Appendix **B** to this water conservation plan is a modified water utility profile based on the format recommended by the TCEQ. Some additional sections were added in order to gather the information necessary to assess the effectiveness of the water conservation plan.

#### 4. SPECIFICATION OF WATER CONSERVATION GOALS

Current TCEQ rules require the adoption of specific water conservation goals for a water conservation plan. As part of plan adoption, each customer will develop 5-year and 10-year goals for per capita municipal use, following TCEQ procedures described in the water utility profile (Appendix B). The goals for this water conservation plan include the following:

- Keep the per capita municipal water use below 158 gallons per capita per day in 2018 (5-year goal) and 155 gallons per capita per day in 2023 (10-year goal).
- ~~Keep the per capita municipal water use below 160 gallons per capita per day in 2012 (5-year goal) and 155 gallons per capita per day in 2017 (10-year goal).~~
- Keep the level of unaccounted water in the system below 10% annually in 2008 2014 and subsequent years, as discussed in Section 5.4.
- Implement and maintain a program of universal metering and meter replacement and repair, as discussed in Section 5.2.
- Decrease waste in lawn irrigation by implementation and enforcement of landscape water management regulations, as discussed in Section 8.4.
- Raise public awareness of water conservation and encourage responsible public behavior by a public education and information program, as discussed in Section 6.

## **5. METERING, WATER USE RECORDS, CONTROL OF UNACCOUNTED WATER, AND LEAK DETECTION AND REPAIR**

One of the key elements in water conservation is careful tracking of water use and control of losses through illegal diversions and leaks. Careful metering of water deliveries and water use, detection and repair of leaks in the distribution system, and regular monitoring of unaccounted water are important in controlling losses.

### **5.1 Accurate Metering of Treated Water Deliveries**

The metering devices that measure raw water delivered to the City of Mansfield, Texas will be maintained within a minimum of +/- 5% accuracy. The largest raw water meter is located at the water treatment plant. This meter is an Endress Hauser, Pro-Mag W, which has an accuracy range of +/- 0.5%.

### **5.2 Metering of Customer and Public Uses and Meter Testing, Repair, and Replacement**

All connections to the water system are metered connections. All meters will be maintained within an acceptable operating accuracy range as defined by the manufacturer or AWWA Standard for meter accuracy, which ever is more stringent. Dead meters and meters that indicate reduced usage will be flagged during the computerized billing process. These meters will be checked, field tested, and replaced when found to be out of manufacturer specifications or not meeting AWWA Standards.

### **5.3 Record Management System**

As required by TAC Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(2)(B), the record management system allows for the separation of water sales and uses into residential, commercial, public/institutional, and industrial categories. This information will be included in an annual water conservation report, as described in Section 5.6 below.

The City of Mansfield will continue to maintain a record management system that accounts for; raw water received, drinking water treated, drinking water pumped, water delivered, water sold, and water system loss. This record management system will continue to separate and account for monthly usage in the following customer categories; residential domestic, residential irrigation, commercial usage, commercial/industrial irrigation, builders / construction, institutional, and industrial.

### **5.4 Determination and Control of Unaccounted Water**

Unaccounted water is the difference between raw water purchased from TRWD and metered deliveries to customers. Authorized but unmetered uses would include use for fire fighting, releases for flushing of lines, and uses associated with new construction. Unaccounted water can include several categories:

- Inaccuracies in customer meters. (Customer meters tend to run more slowly as they age and under-report actual use.)
- Losses due to water main breaks and leaks in the water distribution system.
- Losses due to illegal connections and theft.
- Other.

The City of Mansfield will continue to monitor and minimize unaccounted water use by; periodic visual field inspection of all water facilities, use of fire hydrant meters to quantify the volume of water lost during flushing, review of property occupancy, and monthly comparisons of historical metered usage. Additional measures will be taken at the water treatment plant to quantify process water.

As shown in the Water Utility Profile, unaccounted water has varied from 7.5% to 13.9% in the last five years. With the measures described in this plan, the City of Mansfield intends to maintain the unaccounted water below 10% in 2014 and subsequent years.

~~As shown in the Water Utility Profile, unaccounted water has varied from 8% to 17% in the last five years. With the measures described in this plan, the City of Mansfield intends to maintain the unaccounted water below 10% in 2008 and subsequent years.~~

## **5.5 Leak Detection and Repair**

The City of Mansfield will continue to vigilantly monitor the water distribution system and customer service connections for water leaks, and address the repair of any leaks found in a manner that expeditiously stops water loss. All leaks will be isolated and repaired as soon as possible.

Meter readers watch for and report signs of illegal connections so they can be addressed quickly. Crews and personnel look for and report evidence of leaks in the water distribution system. Maintenance crews respond quickly to repair leaks reported by the public and city personnel. The City of Mansfield uses 2 three-man distribution line crews. Areas of the water distribution system in which numerous leaks and line breaks occur are targeted for replacement as funds are available.

## **5.6 Monitoring of Effectiveness and Efficiency - Annual Water Conservation Report**

Appendix B is a modified water utility profile form that will be used in the development of an annual water conservation report for the City of Mansfield. This form will be completed by May 1 of the following year and will be used to monitor the effectiveness and efficiency of the water conservation program and to plan conservation-related activities for the next year. The form records the water use by category, per capita municipal use, and unaccounted water for the current year and compares them to historical values. The modified water utility profile and annual water conservation report will also be sent to TRWD, which will monitor regional water conservation trends.



## 6. CONTINUING PUBLIC EDUCATION AND INFORMATION CAMPAIGN

The City of Mansfield will continue to promote conservation through public education by:

- Participating in various conservation programs with the Tarrant Regional Water District.
- Promoting a consistent, regional message of conservation awareness in public and private schools.
- Making conservation information available at the public library and on the City of Mansfield website.
- Including a conservation message in the city's E-Newsletter.
- Ensuring that the annual consumer confidence report will continue to contain a conservation message for the entire service area.
- Encouraging local media coverage of water conservation issues and the importance of water conservation.
- Making the *Texas Smartscape* CD, water conservation brochures, and other water conservation materials available to the public at the City of Mansfield Utility Department and other public places.
- Water Department staff will participate in the *Texas Smartscape* workshops, teaching attendees how to develop water management strategies and proper irrigation scheduling.
- The City of Mansfield sponsors the Newspapers in Education initiative. Up to 350 area teachers can sign up to receive a free supplement, "Water: From Here to Eternity and Back Again." TRWD and its primary customers (including Mansfield) have customized the supplement with additional topics that specifically relate to water issues in North Central Texas.

## 7. NON-PROMOTIONAL WATER RATE STRUCTURE

With the intent of encouraging water conservation and discouraging waste and excessive use of water, the City of Mansfield has adopted an increasing block rate structure. The unit price for water increases with increasing water usage. Current water rates are shown in tables 7.1 and 7.2.

**Table 7.1 Monthly Meter Charges**

<b>Meter Size (inches)</b>	<b>Total Charge</b>	<b>Meter Size (inches)</b>	<b>Total Charge</b>	<b>Meter Size (inches)</b>	<b>Total Charge</b>
5/8 or 3/4	\$21.65	2	\$173.20	6	\$1212.40
1	\$54.13	3	\$346.40		
1 1/2	\$108.25	4	\$595.38		

**Table 7.2 Volume Unit Charges**

<b>Water User</b>	<b>Type/Volume</b>	<b>Volume Unit Charge (\$ per 1,000 gal.)</b>
<b>Residential and Commercial Customers</b>	0 to 2,000 gallons	Included in base
	2,000 to 32,000 gallons	\$2.98
	32,000 gallons or above	\$3.73
<b>Industrial Customers</b>	0 to 2,000 gallons	Included in base
	2,000 to 32,000 gallons	\$2.30
	32,000 gallons or above	\$2.88

## **8. OTHER WATER CONSERVATION MEASURES**

### **8.1 Reservoir System Operation Plan**

Tarrant Regional Water District is responsible for all reservoir operation. The City of Mansfield will continue to provide elected official representation on the Advisory Board and staff representation on the Technical Advisory Committee of the Tarrant Regional Water District.

### **8.2 Reuse and Recycling of Wastewater**

The City of Mansfield does not own and operate its own wastewater treatment plant. The city's wastewater is treated by the Trinity River Authority.

### **8.3 Ordinances, Plumbing Codes, or Rules on Water-Conserving Fixtures**

The State of Texas has required water-conserving fixtures in new construction and renovations since 1992. The state standards call for flows of no more than 2.5 gallons per minute (gpm) for faucets, 3.0 gpm for showerheads, and 1.6 gallons per flush for toilets. Similar standards are now required nationally under federal law. These state and federal standards assure that all new construction and renovations will use water-conserving fixtures.

### **8.4 Water Waste Prohibition**

Landscape irrigation and outdoor watering are responsible for a large portion of the water wasted in the state of Texas. The City of Mansfield will adopt the following conservation measures in an effort to reduce the amount of waster water:

- Prohibition of outdoor watering with sprinklers from 10:00 a.m. to 6:00 p.m. every day, year-round. Watering with hand-held hoses (provided that they are equipped with positive shut-off devices), soaker hoses, or hand-held dispensers is allowed.
- Requirement that all irrigation systems installed or receiving major repair work on or after May 1, 2008, be equipped with operational rain and freeze sensors. Existing residential irrigation systems are encouraged to be retrofitted with similar rain and freeze sensors.
- Requirement that all commercial and home owners' association (HOA) irrigation systems be equipped with operational rain and freeze sensors.
- Requirement that all irrigation systems installed or receiving major repair work on or after May 1, 2008, be equipped with controllers capable of multiple programs.
- Requirement that all irrigation systems installed or receiving major repair work on or after May 1, 2008, be equipped with an approved manual shut-off valve with lock-out capabilities. City personnel must be able to lock-out the valve with a standard padlock.

- Requirement that all irrigation systems be in compliance with current state design and installation regulations (Texas Administrative Code Title 30, Part 1, Chapter 344).
- Prohibition of designs and installations that spray directly onto impervious surfaces such as sidewalks and roads or onto other non-irrigated areas.
- Prohibition of poorly maintained sprinkler systems that waste water.
- Prohibition of outdoor watering during any form of precipitation.
- Prohibition of outdoor watering during a freeze or when the temperature has the potential of reaching 32°F.

Failure to comply with any portion of this section will constitute a violation and may be subject to enforcement.

Any of the following shall constitute major repair work:

- Any repair or maintenance that exposes the main line to the atmosphere.
- Any repair or maintenance that has an associated cost equal to or greater than \$500.00.

## **8.5 Requirement for Water Conservation Plans by Wholesale Customers**

The City of Mansfield is a wholesale water supplier. Every contract for the wholesale sale of water that is entered into, renewed, or extended after the adoption of this water conservation plan will include a requirement that the wholesale customer and any wholesale customers of that wholesale customer develop and implement a water conservation plan meeting the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code. The requirement will also extend to each successive wholesale customer in the resale of the water.

## **8.6 Coordination with Regional Water Planning Group and TRWD**

Appendix C includes a letter sent to the Chair of the Region C Water Planning Group with this water conservation plan. A copy of this plan has also been sent to TRWD.

## **8.7 Requests for Variance**

The Director of Utility Operations or his/her designee may grant temporary variance for water use prohibited by this plan if it is determined that an emergency condition resulting in an adverse affect to health, sanitation, or fire protection of a customer, person, or entity would result if a variance is not granted. Temporary variance may also be granted if it is determined that a customer, person, or entity is caused undue hardship or financial burden if a variance is not granted.

Outdoor watering at a service address with large multi-station irrigation systems may take place in accordance with a variance granted by the Director of Utility Operations or his/her designee if it is determined that the property can not be adequately irrigated in a single day.



Temporary variance may also be granted to playing fields which require watering to maintain league standards.

Skinned areas of sports fields may be watered as needed for dust control without applying for temporary variance.

In order to receive a written variance from the Director of Utility Operation or his/her designee the customer, person, or entity must provide a written request including:

- Name and address of the person requesting the variance.
- Location of the proposed water use.
- Detailed statement of potential damage and reason for the variance.
- The volume of water needed and specific purpose of water use.
- Period of time the variance is needed.
- Detailed statement of water conservation measures that are being used.
- Any diagram or other explanation that demonstrates the need for a variance.

Variances not retroactive and do not justify violations of the plan.

## **9. IMPLEMENTATION AND ENFORCEMENT OF THE WATER CONSERVATION PLAN**

Mandatory water conservation measures will be enforced by warnings and penalties as follows:

- On the first violation, customers will be given a verbal warning that they have violated the mandatory water conservation measures. City staff will provide the customer with the information and educational materials needed to comply with the plan.
- On the second violation, customers will be issued a written warning that they have violated the mandatory water conservation measures.
- On the third and subsequent violations, a violation notice will be issued to customers, with minimum and maximum fines established by ordinance.
- After four violations have occurred, in a twelve month timeframe, the utility may cut off water service to the customer.
  - In order to restore water service, a customer must sign a statement of intent to comply with all applicable water conservation measures established or adopted by ordinance and pay a restore service fee.

The Director of Utility Operations or his/her designee may assess an administrative fee approved by the City Manager in addition to any criminal penalty assessed for a violation of this plan as described below. Administrative fees will not be assessed for verbal or written warnings. The administrative fee shall be assessed on the third and subsequent violations in order to recover costs associated with enforcement. Each day that a violation occurs shall constitute a separate violation.

- Violations involving irrigation systems with lock-out capabilities.
  - The Director of Utility Operations or his/her designee may install a lock on an irrigation system found to be operating in violation of this plan on more than three occasions and shall assess an administrative fee as approved by the City Manager (if applicable).
  - Notice shall be left on the premise to advise the owner/operator that the irrigation system has been locked; and
  - Notice shall be sent by United States Postal Service to the person recorded as the city's water customer notifying that person that a violation has been found and that the irrigation system has been locked. The notice shall also state the amount of the assessed administrative fee and shall advise the person of the procedures for payment of the fees and the procedure to request removal of the lock.
- Violations involving irrigation systems without lock-out capabilities.
  - The Director of Utility Operations or his/her designee shall leave notice on the premise to advise the owner/operator that the person was in violation of

this plan and has been assessed an administrative fee as approved by the City Manager (if applicable).

- Notice shall be sent by United States Postal Service to the person recorded as the city's water customer notifying that person that a violation has been found. The notice shall also state the amount of the assessed administrative fee and shall advise the person of the procedures for payment of the fees.
- Violations of mandatory water conservation measures not involving an underground irrigation system.
  - The Director of Utility Operations or his/her designee shall leave notice on the premise to advise the owner/operator that the person was in violation of this plan and has been assessed an administrative fee as approved by the City Manager (if applicable).
  - Notice shall be sent by United States Postal Service to the person recorded as the city's water customer notifying that person that a violation has been found. The notice shall also state the amount of the assessed administrative fee and shall advise the person of the procedures for payment of the fees.
- It shall be unlawful for any person to tamper with, cause damage to, or remove a locking device placed on an irrigation system by the Director of Utility Operations or his/her designee.
- The locking device will be removed from the irrigation system by the Director of Utility Operations or his/her designee within three (3) working days after payment is received from the customer.
- The Director of Utility Operations or his/her designee may require that an irrigation system comply with all current regulations and ordinances if:
  - The customer or irrigation system is found to be in violation of this plan on four (4) separate occasions;
  - In the opinion of the Director of Utility Operations or his/her designee, the violation warrants immediate compliance; or
  - The design, installation, or operation of the irrigation system prohibits the efficient use of water.
- Failure to pay assessed administrative fees within the indicated timeframe will constitute a separate violation of this plan.

## **APPENDIX A**

### **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES ON MUNICIPAL WATER CONSERVATION PLANS**



**Texas Commission on Environmental Quality Rules on Water Conservation Plans  
for Municipal Uses by Public Water Suppliers**

**Texas Administrative Code**

<b><u>TITLE 30</u></b>	ENVIRONMENTAL QUALITY
<b><u>PART 1</u></b>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<b><u>CHAPTER 288</u></b>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<b><u>SUBCHAPTER A</u></b>	WATER CONSERVATION PLANS
<b>RULE §288.1</b>	<b>Definitions</b>

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The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Agricultural or Agriculture--Any of the following activities:
  - (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
  - (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;
  - (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
  - (D) raising or keeping equine animals;
  - (E) wildlife management; and
  - (F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.
- (2) Agricultural use--Any use or activity involving agriculture, including irrigation.
- (3) Conservation--Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- (4) Drought contingency plan--A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).
- (5) Industrial use--The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, commercial

fish production, and the development of power by means other than hydroelectric, but does not include agricultural use.

- (6) Irrigation--The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water through a municipal distribution system.
- (7) Irrigation water use efficiency--The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.
- (8) Mining use--The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.
- (9) Municipal per capita water use--The sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.
- (10) Municipal use--The use of potable water within or outside a municipality and its environs whether supplied by a person, privately owned utility, political subdivision, or other entity as well as the use of sewage effluent for certain purposes, including the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes, including public and private swimming pools, the use of potable water in industrial and commercial enterprises supplied by a municipal distribution system without special construction to meet its demands, and for the watering of lawns and family gardens.
- (11) Municipal use in gallons per capita per day--The total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.
- (12) Nursery grower--A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
- (13) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

- (14) Public water supplier--An individual or entity that supplies water to the public for human consumption.
- (15) Regional water planning group--A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code, §16.053.
- (16) Retail public water supplier--An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.
- (17) Reuse--The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.
- (18) Water conservation plan--A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).
- (19) Wholesale public water supplier--An individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

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**Source Note:** The provisions of this §288.1 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective August 15, 2002, 27 TexReg 7146; amended to be effective October 7, 2004, 29 TexReg 9384

**Texas Administrative Code**

**TITLE 30**

ENVIRONMENTAL QUALITY

**PART 1**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**CHAPTER 288**

WATER CONSERVATION PLANS, DROUGHT  
CONTINGENCY PLANS, GUIDELINES AND  
REQUIREMENTS

**SUBCHAPTER A**

WATER CONSERVATION PLANS

**RULE §288.2**

**Water Conservation Plans for Municipal Uses by Public  
Water Suppliers**

- 
- (a) A water conservation plan for municipal water use by public water suppliers must provide information in response to the following. If the plan does not provide information for each requirement, the public water supplier shall include in the plan an explanation of why the requirement is not applicable.
- (1) Minimum requirements. All water conservation plans for municipal uses by public drinking water suppliers must include the following elements:
- (A) a utility profile including, but not limited to, information regarding population and customer data, water use data, water supply system data, and wastewater system data;
  - (B) until May 1, 2005, specification of conservation goals including, but not limited to, municipal per capita water use goals, the basis for the development of such goals, and a time frame for achieving the specified goals;
  - (C) beginning May 1, 2005, specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day. The goals established by a public water supplier under this subparagraph are not enforceable;
  - (D) metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply;
  - (E) a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement;
  - (F) measures to determine and control unaccounted-for uses of water (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections, abandoned services, etc.);
  - (G) a program of continuing public education and information regarding water conservation;
  - (H) a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water;
  - (I) a reservoir systems operations plan, if applicable, providing for the



coordinated operation of reservoirs owned by the applicant within a common watershed or river basin in order to optimize available water supplies; and

- (J) a means of implementation and enforcement which shall be evidenced by:
    - (i) a copy of the ordinance, resolution, or tariff, indicating official adoption of the water conservation plan by the water supplier; and
    - (ii) a description of the authority by which the water supplier will implement and enforce the conservation plan; and
  - (K) documentation of coordination with the regional water planning groups for the service area of the public water supplier in order to ensure consistency with the appropriate approved regional water plans.
- (2) Additional content requirements. Water conservation plans for municipal uses by public drinking water suppliers serving a current population of 5,000 or more and/or a projected population of 5,000 or more within the next ten years subsequent to the effective date of the plan must include the following elements:
- (A) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted-for uses of water;
  - (B) a record management system to record water pumped, water deliveries, water sales, and water losses which allows for the desegregation of water sales and uses into the following user classes:
    - (i) residential;
    - (ii) commercial;
    - (iii) public and institutional; and
    - (iv) industrial; and
  - (C) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter; if the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provisions of this chapter.
- (3) Additional conservation strategies. Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements in paragraphs (1) and (2) of this subsection, if they are necessary to achieve the stated water conservation goals of the plan. The commission may require that any of the following strategies be implemented by the water supplier if the commission determines that the strategy is necessary to achieve the goals of the

water conservation plan:

- (A) conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;
  - (B) adoption of ordinances, plumbing codes, and/or rules requiring water-conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;
  - (C) a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;
  - (D) reuse and/or recycling of wastewater and/or greywater;
  - (E) a program for pressure control and/or reduction in the distribution system and/or for customer connections;
  - (F) a program and/or ordinance(s) for landscape water management;
  - (G) a method for monitoring the effectiveness and efficiency of the water conservation plan; and
  - (H) any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.
- (b) A water conservation plan prepared in accordance with 31 TAC §363.15 (relating to Required Water Conservation Plan) of the Texas Water Development Board and substantially meeting the requirements of this section and other applicable commission rules may be submitted to meet application requirements in accordance with a memorandum of understanding between the commission and the Texas Water Development Board.
- (c) Beginning May 1, 2005, a public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group.

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**Source Note:** The provisions of this §288.2 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384

## **APPENDIX B**

### **FORM FOR WATER UTILITY PROFILE AND WATER CONSERVATION REPORT**

**APPENDIX B**  
**Customer Water Conservation Report**  
**Due May 1 of Every Year**

**Name of Utility:** \_\_\_\_\_

**Address & Zip:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Form Completed By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Name and Phone Number of Person/Department responsible for implementing a water conservation program:

\_\_\_\_\_

<b>UTILITY PROFILE</b>
------------------------

**I. POPULATION CUSTOMER DATA**

**A. Population and Service Area Data**

1. Service area size (square miles): \_\_\_\_\_

2. Current population of service area: \_\_\_\_\_

3. Current population served by utility:

a: water \_\_\_\_\_

b: wastewater \_\_\_\_\_

4. Population served by water utility  
service area for the previous five years:

5. Projected population for  
in the following decades:

<u><b>Year</b></u>	<u><b>Population</b></u>
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_____	_____
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_____	_____
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_____	_____
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_____	_____
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_____	_____
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<u><b>Year</b></u>	<u><b>Population</b></u>
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<u>2010</u>	_____
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<u>2020</u>	_____
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<u>2030</u>	_____
-------------	-------

<u>2040</u>	_____
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<u>2050</u>	_____
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<u>2060</u>	_____
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5. List specific source(s)/method(s) for the calculation of current and projected population:

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## B. Active Connections

1. Current number of active connections by user type. Check whether multi-family service is counted as Residential \_\_\_\_ or Commercial \_\_\_\_.

Treated water users	Metered	Not-metered	Total
Residential			
Commercial			
Industrial			
Public			
Other			

2. List the net number of new connections per year for most recent three years:

Year	<u>20XX</u>	<u>20XX</u>	<u>20XX</u>
Total	_____	_____	_____

## C. High Volume Customers

List annual water use for the ten highest volume customers (indicate if treated or raw water delivery). Provide date of most recent water use audit – if never audited, please indicate so.

	Customer	Use (1,000 gallons / year)	Treated / Raw Water	Date of Last Water Use Audit
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				

(7)				
(8)				
(9)				
(10)				

## II. WATER USE DATA FOR SERVICE AREA

### A. Water Accounting Data

1. Amount of water use for previous five years (in 1,000 gal.):

Total Diverted and Treated Water Deliveries and Sales by Month					
Month	Year				
	20XX	20XX	20XX	20XX	20XX
January					
February					
March					
April					
May					
June					
July					
August					
September					
October					
November					
December					
Total					

Indicate how the above figures were determined (e.g., from a master meter located at the point of a diversion from the source or located at a point where raw water enters the treatment plant, or from water sales).

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2. Indicate whether water is supplied from:

a. Untreated surface water sources: \_\_\_\_\_

b. Another utility as treated water: \_\_\_\_\_

2a. For entities that treat their own water:

Does utility operate a raw water intake? If so, indicate intake location and minimum elevations of safe operation.

<u>Location of raw water intake</u>	<u>Elevation</u>
_____	_____
_____	_____
_____	_____
_____	_____

2b. For entities that purchase treated water from another utility, list water supply sources and quantity purchased from each source:

<u>Treated water sources purchased</u>	<u>Quantity</u>
_____	_____
_____	_____
_____	_____
_____	_____

3. Amount of water (in 1,000 gallons) delivered (sold) as recorded by the following account types for the past five years.

Account Type	Year				
	20XX	20XX	20XX	20XX	20XX
Residential					
Commercial					
Public / Institutional					
Industrial					
Wholesale					
Other					
Total Sold					

Residential:                      Single + multifamily residences

Commercial: Restaurants, retail, office

Public / Institutional: Municipal, airports, schools, hospitals

Industrial: Large manufacturing

Wholesale: Deliveries to successive customers

Other: Uses not included in above categories.  
Please describe:\_\_\_\_\_

4. Calculate gallons per capita per day by account types for the past five years.

Account Type	Gallons per capita per day by Account Type (Total water diverted (or treated) / population / 365)				
	20XX	20XX	20XX	20XX	20XX
Residential					
Commercial					
Public / Institutional					
Industrial					
Wholesale					
Other					
Total					

5. List previous five years records for water loss (the difference between water diverted (or treated) and water delivered (or sold)). The goal for percent of unaccounted for water is 12%.

<u>Year</u>	<u>Amount (gal.)</u>	<u>% of Total Water Diverted or Treated</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. List previous five years records for water reuse. Reuse is the authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and



before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake or other body of state-owned water.

<u>Year</u>	<u>Amount (gal.)</u>	<u>% of Total Water Diverted or Treated</u>
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7. Municipal per capita water use (in gallons per day) for previous five years. Municipal per capita water use is the sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by total population served. GPCD includes water losses.

<u>Year</u>	<u>Population</u>	<u>Total Water Diverted (or Treated)(1,000 gal.)</u>	<u>Municipal Per Capita Use (GPCD)</u>
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7. Previously stated per capita goals:    5-year: \_\_\_\_\_ 10-year: \_\_\_\_\_  
   (by 200X)                                 (by 200X)
8. Did water use (GPCD) increase or decrease from previous year? \_\_\_\_\_  
Percent increase or decrease from previous year? \_\_\_\_\_
9. Briefly discuss reasons for the increase or decrease in municipal water use.

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**APPENDIX C**

**LETTER TO REGION C**  
**WATER PLANNING GROUP**

**APPENDIX C**  
**Letter to Region C Water Planning Group**

Date

Mr. Jim Parks  
Chair, Region C Water Planning Group  
North Texas Municipal Water District  
P.O. Box 2408  
Wylie, TX 75098

Dear Mr. Parks:

Enclosed please find a copy of the water conservation plan for customers of the City of Mansfield. I am submitting a copy of this plan to the Region C Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules.

Sincerely,

Joe Smolinski  
Pretreatment Coordinator  
City of Mansfield

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## **1. INTRODUCTION AND OBJECTIVES**

This plan addresses all of the current TCEQ requirements for a drought contingency plan.

The purpose of this drought contingency plan is as follows:

- To protect and preserve public health, welfare, and safety
- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions.

## **2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES**

The TCEQ rules governing development of drought contingency plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code. For the purpose of these rules, a drought contingency plan is defined as “a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies.”

## **3. DROUGHT CONTINGENCY PLAN**

### **3.1 Provisions to Inform the Public and Opportunity for Public Input**

The City of Mansfield will provide opportunity for public input in the development of this drought contingency plan by the following means:

- Public Hearing

### **3.2 Provisions for Continuing Public Education and Information**

The City of Mansfield will inform and educate the public about the drought contingency plan by the following means:

- Preparing a bulletin describing the plan and making it available at city hall and other appropriate locations.
- Making the plan available to the public through the city’s Web site (if available).



- Including information about the drought contingency plan on the city's Web site (if available).
- Notifying local organizations, schools, and civic groups that staff are available to make presentations on the drought contingency plan (usually in conjunction with presentations on water conservation programs).

At any time that the drought contingency plan is activated or the drought stage changes, the City of Mansfield will notify local media of the issues, the drought response stage, and the specific actions required of the public. The information will also be publicized on the city's Web site. News letters and/or notices on bills will also be used as appropriate.

### **3.3 Initiation and Termination of Drought and Emergency Response Stages**

#### Initiation of a Drought and Emergency Response Stage

The City Manager or official designee may order the implementation of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought stage is initiated:

- The public will be notified through local media and the city's Web site (if available) as described in Section 3.2.
- Wholesale customers (if any) and TRWD will be notified by telephone with a follow-up letter, e-mail, or fax that provides details of the reasons for initiation of the drought stage.
- If any mandatory provisions of the drought contingency plan are activated, the City of Mansfield will notify the Executive Director of the TCEQ within 5 business days.

Drought stages imposed by TRWD action must be initiated by customers (including indirect customers).

For other trigger conditions, the City Manager or official designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

#### Termination of a Drought Stage

The City Manager or official designee may order the termination of a drought response stage or water emergency when the conditions for termination are met or at their discretion. The following actions will be taken when a drought stage is terminated:

- The public will be notified through local media and the city's Web site (if available) as described in Section 3.2.
- Wholesale customers (if any) and TRWD will be notified by telephone with a follow-up letter, e-mail, or fax.

- If any mandatory provisions of the drought contingency plan that have been activated are terminated, the City of Mansfield will notify the Executive Director of the TCEQ within 5 business days.

The City Manager or official designee may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage. The reason for this decision should be documented.

### **3.4 Drought and Emergency Response Stages**

#### Stage 1, Water Watch

##### Triggering and Terminating Conditions

TRWD has initiated Stage 1, Water Watch, which may be initiated by one or more of the following:

- Total raw water supply in TRWD western and eastern division reservoirs drops below 75% (25% depleted) of conservation storage.
- Water demand for all or part of the TRWD delivery system exceeds delivery capacity because delivery capacity is inadequate.
- Water demand is projected to approach the limit of TRWD's permitted supply.
- TRWD's supply source becomes contaminated.
- TRWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- The TRWD General Manager, with the concurrence of the TRWD Board of Directors, finds that conditions warrant the declaration of a Stage 1 drought.
- The City of Mansfield's demand exceeds the amount that can be delivered to customers.
- City's water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate.
- City's water treatment or distribution system becomes contaminated.
- City's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's plan may be implemented if other criteria dictate.

Stage 1 may terminate when TRWD terminates its Stage 1 condition, when the circumstances that caused the initiation of Stage 1 no longer prevail, or at the discretion of the City Manager or official designee.

Stage 1 may be terminated when total raw water supply in TRWD western and eastern division reservoirs reaches 85% for 90 days or lake levels reach 95%, or at the discretion of the City Manager or official designee.

### Goal for Use Reduction

The goal for water use reduction under Stage 1, Water Watch, is to decrease use by five percent. If circumstances warrant or if required by TRWD, the City Manager or his/her official designee can set a goal for greater water use reduction.

### Actions Available under Stage 1, Water Watch

The City Manager or official designee ~~may~~ **must** implement any action(s) ~~required~~ **requested** by the Tarrant Regional Water District. In addition, the City Manager or official designee may order the implementation of any of the other actions listed below, as deemed necessary. The City of Mansfield must notify TCEQ within five business days if any mandatory measures are implemented.

### All Water Users

- Initiate mandatory restrictions to prohibit non-essential water use as follows:
  - ~~Prohibit hosing of paved areas, such as sidewalks, driveways, parking lots, tennis courts, patios, or other impervious surfaces, except to alleviate immediate health hazard.~~
  - Prohibit hosing of buildings or other structures for purposes other than fire protection or surface preparation prior to painting.
  - Prohibit using water in such a manner as to allow runoff or other waste, including:
    - (1) failure to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
    - (2) operating a permanently installed irrigation system with: (a) a broken head; (b) a head that is out of adjustment and the arc of the spray head is over a street or parking lot; or (c) a head that is misting because of high water pressure; or
    - (3) during irrigation, allowing water to (a) to run off a property and form a stream of water in a street for a distance of 50 feet or greater; or (b) to pond in a street or parking lot to a depth greater than one-quarter of an inch.
- Outdoor watering with sprinklers or irrigation systems is prohibited between 10 a.m. and 6 p.m. year-round, in all stages.
- Limit landscape watering with sprinklers or irrigation systems at each service address to a twice per week schedule as determined by the director of utilities.

### Exceptions:

- Foundations may be watered up to two hours on any day by handheld hose; or using a soaker hose or drip irrigation system placed within 24-inches of the foundation that does not produce a spray of water above the ground.
  - New plantings, (first year) of shrubs, and trees may be watered up to two hours on any day by handheld hose, drip irrigation, or a soaker hose. Tree watering is limited to an area not to exceed the drip line of a tree.
  - Twice per week landscape watering restrictions do not apply to locations using well water or treated wastewater effluent for irrigation.
  - Outdoor watering at service addresses with large multi-station irrigation systems may take place in accordance with a variance granted by the director of utilities, if the director determines that a property can not be completely irrigated with an average of three-quarters of an inch of water in a single day, and that the property should be divided into sections to be irrigated on different days.
- Establishing new turf is discouraged. If new hydromulch, grass sod, or grass seed is installed, there are no watering restrictions for the first 30 days while it is being established. After that, the watering restrictions set forth in this stage apply.
  - Washing of any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the premises of a commercial car wash or commercial service station. Further, such washing may be exempt from these requirements if the health, safety, and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
  - Encourage reduction in frequency of draining and refilling swimming pools.
  - Encourage use of Texas native and drought tolerant plants in landscaping.

### City and Local Governments

In addition to actions listed above, the City Manager or official designee may also:

- Review conditions and problems that caused Stage 1. Take corrective action.
- Increase public education efforts on ways to reduce water use.
- Intensify leak detection and repair efforts.
- Audit all city and local government irrigation systems to ensure proper condition, settings, and operation.
- Identify and encourage voluntary reduction measures by high-volume water users through water use audits.
- Increase enforcement efforts.



- Landscape watering of municipal parks, golf courses, and sports fields is restricted to twice per week watering schedule, per irrigation station.

Exceptions:

- Golf courses may water greens and tee boxes without restrictions, however watering must be done before 10 a.m. and after 6 p.m.
  - ~~Skinned areas of sports fields may be watered as needed for dust control.~~
  - Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. Encouraged to reduce water use by five percent.
  - See all water users category above for rules that apply to facilities with large multi-station irrigation systems.
- Reduce non-essential water use. As used herein, non-essential water uses are those that do not have any health or safety impact and are not needed to meet the core function of the agency.
  - Notify wholesale customers of actions being taken and request them to implement similar procedures.

Commercial or Industrial

- All actions listed above for all water users apply to commercial and industrial users.
- Landscape watering of parks, golf courses, and sports fields is restricted to twice per week watering schedule, per irrigation station.

Exceptions:

- Golf courses may water greens and tee boxes without restrictions, however watering must be done before 10 a.m. and after 6 p.m.
  - ~~Skinned areas of sports fields may be watered as needed for dust control.~~
  - ~~Playing fields with a stadium only (not surrounding landscaping) may be watered as needed to maintain league standards.~~
  - Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. Encouraged to reduce water use by five percent.
  - See all water users category above for rules that apply to facilities with large multi-station irrigation systems.
- Stock at commercial plant nurseries is exempt from Stage 1 watering restrictions.

▪ ~~Hotels, restaurants, and bars are encouraged to serve drinking water to patrons on an “on demand” basis.~~

- Hotels are encouraged to implement laundry conservation measures by encouraging patrons to reuse linens and towels.

## Stage 2, Water Warning

### Triggering and Terminating Conditions

The TRWD has initiated Stage 2, Water Warning, which may be initiated by one or more of the following:

- Total raw water supply in TRWD western and eastern division reservoirs drops below 60% (40% depleted) of conservation storage.
- Water demand for all or part of the TRWD delivery system exceeds delivery capacity because delivery capacity is inadequate.
- Water demand is projected to approach the limit of TRWD’s permitted supply.
- TRWD’s supply source becomes contaminated.
- TRWD’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- The TRWD General Manager, with the concurrence of the TRWD Board of Directors, finds that conditions warrant the declaration of a Stage 2 drought.
- The City of Mansfield’s demand exceeds production capacity of the amount that can be delivered to customers for 1 day.
- City’s demand for all or part of the delivery system equals or exceeds delivery capacity because delivery capacity is inadequate.
- City’s water treatment or distribution system becomes contaminated.
- City’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- City’s plan may be implemented if other criteria dictate.

Stage 2 may terminate when TRWD terminates its Stage 2 condition, when the circumstances that caused the initiation of Stage 2 no longer prevail, or at the discretion of the City Manager or official designee.

Stage 2 may be terminated when total raw water supply in TRWD western and eastern division reservoirs reaches 70% for 30 days or lake levels reach 75%, or at the discretion of the City Manager or official designee.

## Goal for Use Reduction

The goal for water use reduction under Stage 2, Water Warning, is to decrease use by ten percent. If circumstances warrant or if required by TRWD, the City Manager or official designee can set a goal for greater water use reduction.

#### Actions Available under Stage 2, Water Warning

The City Manager or official designee ~~may~~ **must** implement any action(s) ~~required~~ **requested** by the Tarrant Regional Water District. In addition, the City Manager or official designee may order the implementation of any of the other actions listed below, as deemed necessary. The City of Mansfield must notify TCEQ within five business days if any mandatory measures are implemented:

#### All Water Users

- Landscape watering with sprinklers or irrigation systems at each service address is limited to once every seven days. Outdoor watering schedule to be determined by director of utilities.

#### Exceptions:

- Foundations may be watered up to two hours on any day by handheld hose; or using a soaker hose or drip irrigation system placed within 24-inches of the foundation that does not produce a spray of water above the ground.
  - New plantings, (first year) of shrubs, and trees may be watered up to two hours on any day by handheld hose, drip irrigation, or a soaker hose. Tree watering is limited to an area not to exceed the drip line of a tree.
  - Once per week outdoor watering restrictions do not apply to locations using well water or treated wastewater effluent for irrigation.
  - Outdoor watering at service addresses with large multi-station irrigation systems may take place in accordance with a variance granted by the director of utilities, if the director determines that a property can not be completely irrigated with an average of three-quarters of an inch of water in a single day, and that the property should be divided into sections to be irrigated on different days.
- Public is encouraged to wait until the current drought or emergency situation has passed before establishing new landscaping. If new hydromulch, grass sod, or grass seed is installed, there are no watering restrictions for the first 30 days while it is being established. After that, the watering restrictions set forth in this stage apply.
  - Prohibit use of water for dust control, except as required to protect public health.
  - Prohibit the operation of ornamental fountains or ponds that use potable water except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
  - **Discourage** ~~Prohibit~~ filling of swimming pools with automatic valves.

#### City and Local Governments

In addition to actions listed above:

- Continue or initiate any actions available under Stage 1.
- Review conditions or problems that caused Stage 2. Take corrective action.
- Increase frequency of media releases on water supply conditions.
- Further accelerate public education efforts on ways to reduce water use.
- Landscape watering at municipal parks, golf courses, and sports fields is limited to once every seven days, per irrigation station.

Exceptions:

- Golf courses may water greens and tee boxes as needed to keep them alive, however watering must be done before 10 a.m. and after 6 p.m.
- ~~Skinned areas of sports fields may be watered as needed for dust control.~~
- Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. Encouraged to reduce water use by ten percent.
- See all water users category above for rules that apply to facilities with large multi-station irrigation systems.
- Halt non-essential water use. As used herein, non-essential water uses are those that do not have any health or safety impact and are not needed to meet the core function of the agency.
- ~~Prohibit wet street sweeping.~~
- Notify wholesale customers of actions being taken and request them to implement similar procedures.

Commercial or Industrial

- All actions listed above for all water users apply to commercial and industrial users.
- Landscape watering at parks, golf courses, and sports fields is limited to once every seven days, per irrigation station.

Exceptions:

- Golf courses may water greens and tee boxes as needed to keep them alive, however watering must be done before 10 a.m. and after 6 p.m.
- ~~Skinned areas of sports fields may be watered as needed for dust control.~~
- Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of

the players, staff, or officials present for athletic events. Encouraged to reduce water use by ten percent.

- See all water users category above for rules that apply to facilities with large multi-station irrigation systems.

### Stage 3, Water Emergency

#### Triggering and Terminating Conditions

The TRWD has initiated Stage 3, Water Emergency, which may be initiated by one or more of the following:

- Total raw water supply in TRWD western and eastern division reservoirs drops below 45% (55% depleted) of conservation storage.
- Water demand for all or part of the TRWD delivery system exceeds delivery capacity because delivery capacity is inadequate.
- Water demand is projected to approach or exceed the limit of TRWD's permitted supply.
- TRWD's supply source becomes contaminated.
- TRWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- The TRWD General Manager, with the concurrence of the TRWD Board of Directors, finds that conditions warrant the declaration of a Stage 3 drought.
- The City of Mansfield's demand exceeds production capacity of the amount that can be delivered to customers for 2 consecutive days.
- City's demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
- Natural or man-made contamination of the water supplier's treatment or distribution system.
- City's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's plan may be implemented if other criteria dictate.

Stage 3 may terminate when TRWD terminates its Stage 3 condition, when the circumstances that caused the initiation of Stage 3 no longer prevail, or at the discretion of the City Manager or official designee.

Stage 3 may be terminated when total raw water supply in TRWD western and eastern division reservoirs reaches 55% for 30 days or lake levels reach 60%, or at the discretion of the City Manager or official designee.



### Goals for Use Reduction

The goal for water use reduction under Stage 3, Emergency Water Use, is to decrease use by 20 percent. If circumstances warrant or if required by TRWD, the City Manager or official designee can set a goal for a greater water use reduction.

### Actions Available under Stage 3, Water Emergency

The City Manager or official designee must implement any action(s) required by the Tarrant Regional Water District. In addition, the City Manager or official designee may order the implementation of any of the other actions listed below, as deemed necessary. The City of Mansfield must notify TCEQ within five business days if any mandatory measures are implemented:

#### All Water Users

- Prohibit landscape watering.

#### Exceptions:

- Foundations may be watered up to two hours on any day by handheld hose; or using a soaker hose or drip irrigation system placed within 24-inches of the foundation that does not produce a spray of water above the ground.
- Trees may be watered up to two hours on any day by handheld hose, drip irrigation, or a soaker hose. Tree watering is limited to an area not to exceed the drip line of a tree.

- ~~▪ Prohibit establishment of new landscaping.~~

- Establishment of new landscaping shall be done in accordance with Section 3.5 (Procedures for Granting Variances to the Plan) ONLY.

- Vehicle washing restricted to commercial car wash or commercial service station and can only be done as necessary for health, sanitation, or safety reasons, including but not limited to the washing of garbage trucks and vehicles used to transport food and other perishables. All other vehicle washing is prohibited.

- ~~▪ Prohibit the draining, filling, or refilling of swimming pools, wading pools and Jacuzzi type pools. Existing private and public pools may add water to maintain pool levels; however they may not be refilled using automatic fill valves.~~

### City and Local Governments

In addition to actions listed above:

- Continue or initiate any actions available under Stages 1 and 2.
- Review conditions or problems that caused Stage 3. Take corrective action.
- Implement viable alternative water supply strategies.
- Increase frequency of media releases explaining emergency situation.

- Reduce city and local government water use to maximum extent possible.
- ~~Prohibit the permitting of new swimming pools, Jacuzzi type pools, spas, ornamental ponds and fountain construction. Pools already permitted and under construction may be completely filled with water.~~
- Landscape watering at municipal parks, golf courses, and sports fields is prohibited.

Exceptions:

- Golf course greens may be watered by hand as needed to keep them alive, however watering must be done before 10 a.m. and after 6p.m.
- Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. Encouraged to reduce water use by twenty percent.
- Institute a mandated reduction in deliveries to all customers. Such a reduction will be distributed as required by Texas Water Code §11.039.
- If TRWD has imposed a reduction in water available to customers, impose the same percent reduction on wholesale customers.
- Notify wholesale customers of actions being taken and request them to implement similar procedures.

Commercial or Industrial

- All actions listed above for all water users apply to commercial and industrial users.
- Landscape watering at parks, golf courses, and sports fields is prohibited.

Exceptions:

- Golf course greens may be watered by hand as needed to keep them alive, however watering must be done before 10 a.m. and after 6 p.m.
- ~~Playing fields with a stadium only (not surrounding landscaping) may be watered as needed to maintain league standards.~~
- Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. Encouraged to reduce water use by twenty percent.
- ~~Hotels, restaurants, and bars required to serve drinking water to patrons on an “on demand” basis.~~
- Hotels required to implement laundry conservation measures by encouraging patrons to reuse linens and towels.

- Stock at commercial plant nursery may be watered only with a hand-held hose, hand-held watering can, or drip irrigation system.
- Commercial and industrial water users required to reduce water use by a set percentage (20 percent is the goal for stage 3).

### **3.5 Procedures for Granting Variances to the Plan**

The City Manager or official designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency plan if one or more of the following conditions are met:

- Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person requesting the variance.
- Compliance with this plan cannot be accomplished due to technical or other limitations.
- Alternative methods that achieve the same level of reduction in water use can be implemented.

Variances shall be granted or denied at the discretion of the City Manager or official designee. All petitions for variances should be in writing and should include the following information:

- Name and address of the petitioner(s)
- Purpose of water use
- Specific provisions from which relief is requested
- Detailed statement of the adverse effect of the provision from which relief is requested
- Description of the relief requested
- Period of time for which the variance is sought
- Alternative measures that will be taken to reduce water use
- Other pertinent information.

### **3.6 Procedures for Enforcing Mandatory Water Use Restrictions**

Mandatory water use restrictions may be imposed in Stages 1, 2, and 3 drought stages. These mandatory water use restrictions will be enforced by warnings and penalties as follows:

- On the first violation, customers will be given a written warning that they have violated the mandatory water use restriction.
- On the second and subsequent violations, citations may be issued to customers, with minimum and maximum fines established by ordinance.
- After two violations have occurred, utility may install a flow restrictor in the line to limit the amount of water that may pass through the meter in a 24-hour period.

- After three violations have occurred, the utility may cut off water service to the customer.

### **3.7 Review and Update of Drought Contingency Plan**

As required by TCEQ rules, customers will review this drought contingency plan in 2014 and at least every five years thereafter. The plan will be updated as appropriate based on new or updated information.



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0842

Agenda Date: 3/24/2014

Version: 2

Status: Second Reading

In Control: City Council

File Type: Ordinance

### Agenda Number:

#### Title

Ordinance - Public Hearing Continuation and Second Reading of an Ordinance Approving a Zoning Change from MF-2, PR, I-1 & 2F to SF-7.5/16, SF-8.4/18, SF-12/22, MF-2 and C-2 on Approximately 555 Acres, Generally Located at the Intersection of South 2nd Avenue and FM Road 917 and East of FM Road 917, West of South Main Street and North of English Trail; Setback Partners (ZC#14-001)

#### Requested Action

To consider the subject zoning change request.

#### Recommendation

The Planning and Zoning Commission held a public hearing on February 18, 2014, and voted 6-0 to recommend approval. Commissioner Polozola was absent.

#### Description/History

##### Second Reading - March 24, 2014

The following information was requested by Council at the previous meeting.

Tract	Existing Zoning	Proposed Zoning	Acreage	# of Units
1	MF-2	SF-7.5/16	25	123
2	I-1 MF-2	N/A	N/A	
3	I-1 C-2	N/A	N/A	
4	I-1 C-2	N/A	N/A	
5	I-1 C-2	N/A	N/A	
6*	I-1, PR, SF-6/12 & 2F	SF-7.5/16	113.34	559
7*	I-1, PR	SF-7.5/16	134.62	117
8	I-1 SF8.4/18		42.85	188
9*	I-1 SF8.4/18		84.15	370
10*	I-1, PR	SF-12/22	88.97	274

488.93 1,631

\*Less gas well acreage

The total density comes to 3.3 units per acre, however these calculations do not take into account the acreage for gas well sites or open space.

##### First Reading - March 17, 2014

The property is in the vicinity of Sentry Industrial Park and the future industrial use of Klein Tools. The existing land use is vacant with several gas well sites on the property (see attached aerial). The applicant is requesting a zone change consisting of 10 different tracts with various straight zoning classifications as depicted below and in the attached zoning illustration.

Tract 1 is approximately 25 acres currently zoned MF-2, proposed to be SF 7.5/16.

Tract 2 is approximately 25 acres currently zoned I-1, proposed to be MF-2 (equal in size to Tract 1 that is currently zoned MF-2).



Tracts 3, 4 and 5 are approximately 7.29, 8.57 and 24.39 acres respectively, currently zoned I-1, proposed to be C-2.

Tracts 6 and 7 are approximately 113.34 and 134.62 acres respectively, currently zoned mostly I-1, proposed to be SF-7.5/16. Tract 6 also contains portions of PR, SF-6/12 and 2F zoning and Tract 7 contains a portion of PR zoning.

Tracts 8 and 9 are approximately 42.85 and 84.15 acres respectively, currently zoned I-1, proposed to be SF-8.4/18.

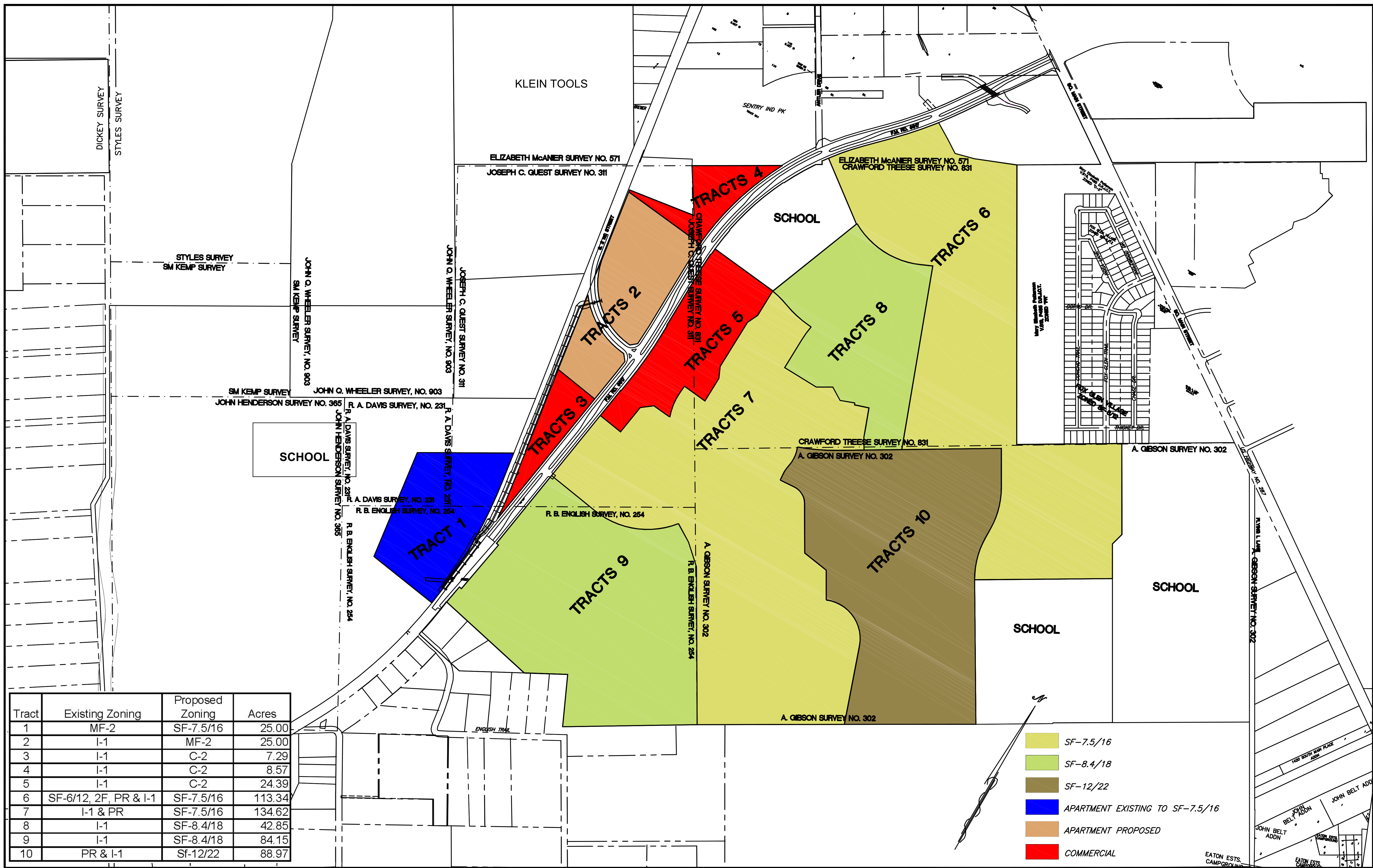
Tract 10 is approximately 88.97 acres, currently zoned I-1 with a small portion of PR, proposed to be SF-12/22.

The future development will be served by large amount of open space consisting of parks, walking trails, a community center, lakes, ball fields, etc. The MISD has acquired a number of school sites for elementary school through high school. The residential design standards adopted in 2012 will apply to the single-family development. The existing C-2 and MF-2 regulations will also apply to the future development.

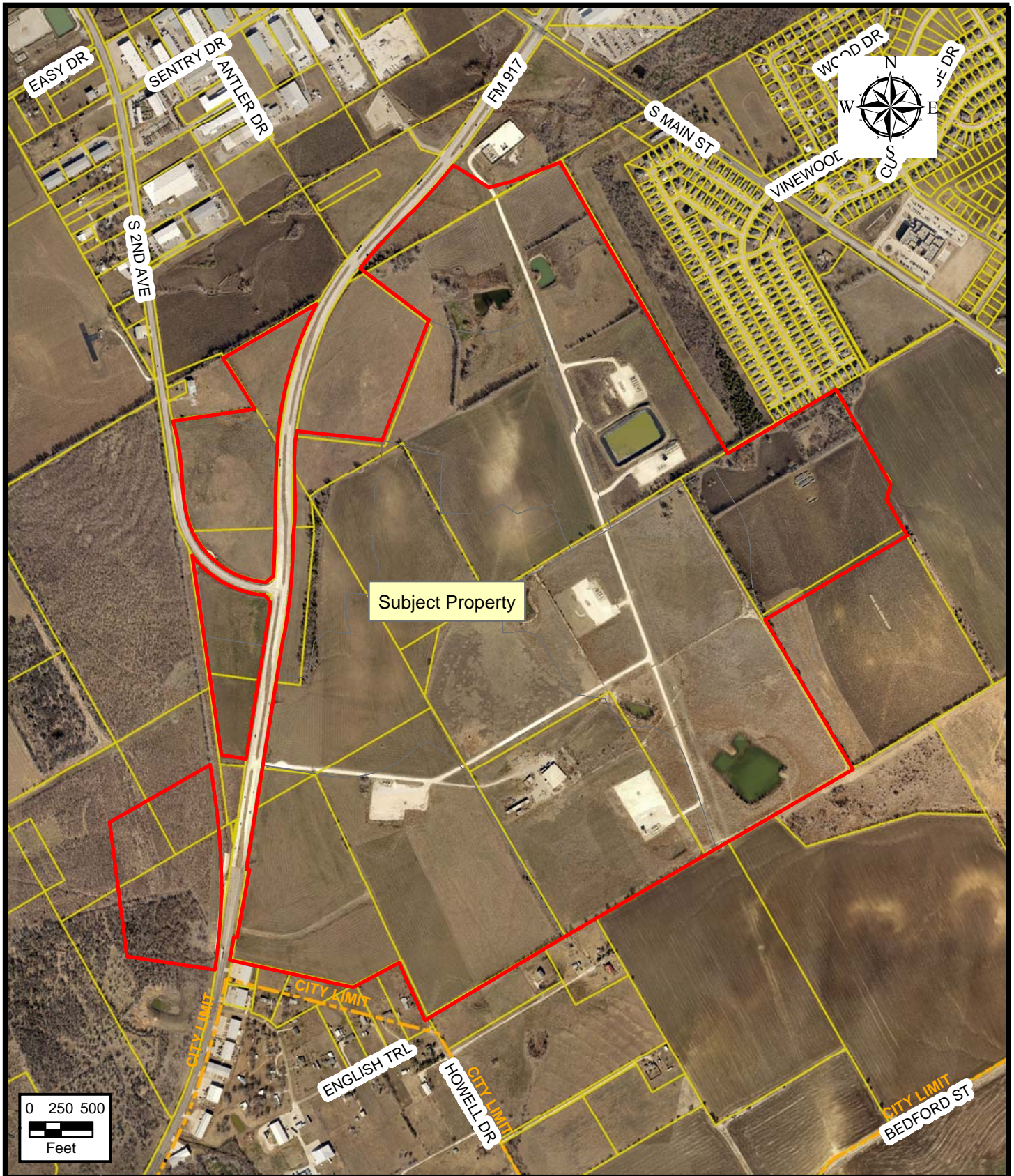
**Prepared By**

Felix Wong, Director of Planning  
817-276-4228







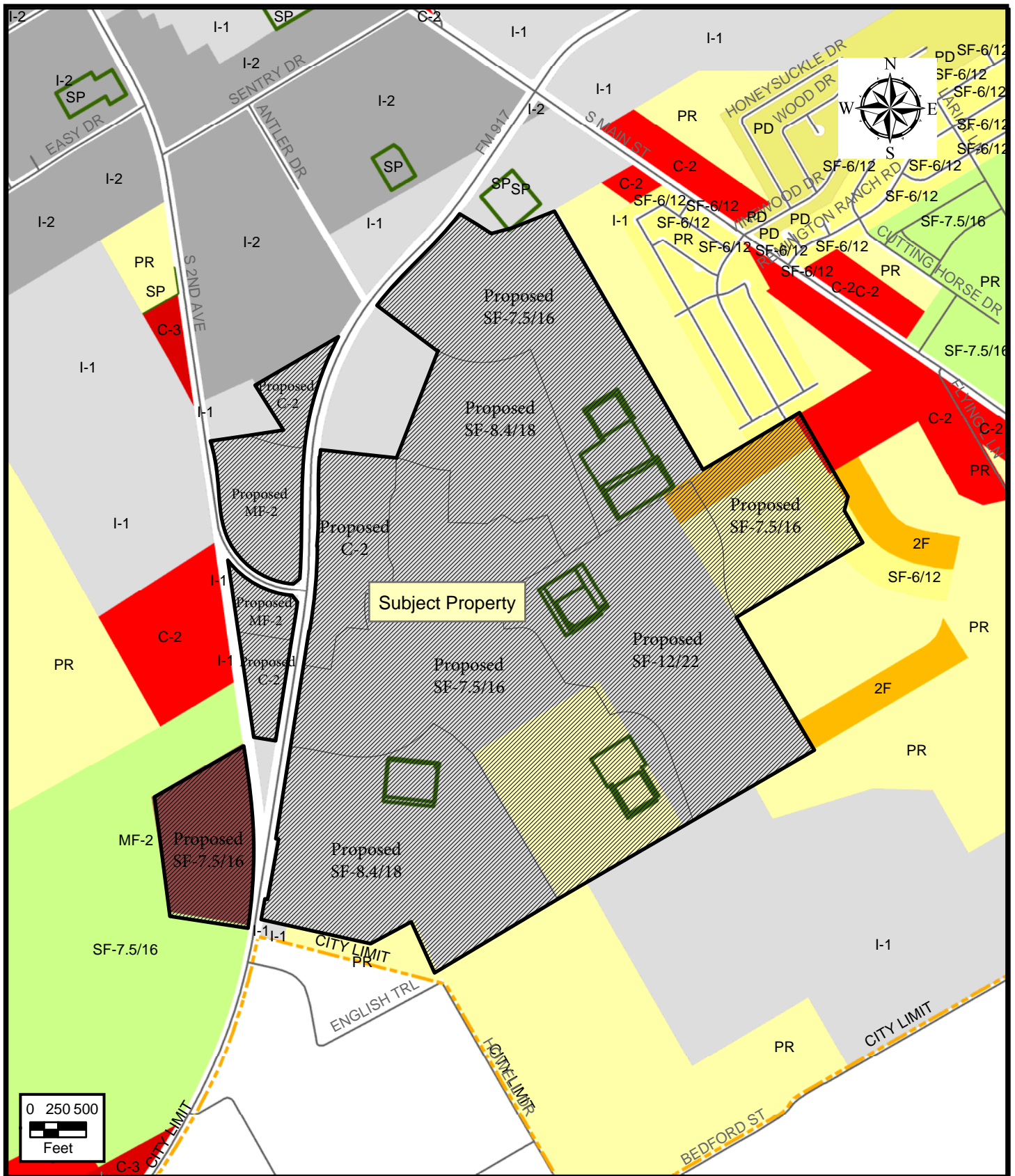


This information is for illustrative purposes only. Not for design or development purposes. Site-specific studies may be required to obtain accurate feature locations. Every effort is made to ensure the information displayed here is accurate; however, the City of Mansfield makes no claims to its accuracy or completeness.

02/05/2014

**ZC # 14-001**





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02/05/2014

**ZC # 14-001**

## Property Owner Notification for ZC # 14-001

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
ABST 231	TR 1,2	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 254	TR 1,2	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 254	TR 3	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 254	TR 3	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 254	TR 3A	DILLARD DONALD G	317 ENGLISH TR	VENUS, TX	76084
ABST 254	TR 3A1	DILLARD DONALD G	317 ENGLISH TR	VENUS, TX	76084
ABST 254	TR 4A	PECK SCOTT A	410 S ROBERTS AVE	EL RENO, OK	73063-3732
ABST 254	TR 4G	COGGINS STEVEN W ETUX TERRI	517 ENGLISH TR	VENUS, TX	76084
ABST 254	TR 4H	NOWICKI KENNETH ETUX WENDY	521 ENGLISH TRL	VENUS, TX	76084-3236
ABST 254	TR 4J	WHITE CYNTHIA	509 ENGLISH TR	VENUS, TX	76084
ABST 254	TR 5	SETBACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 302	TR 1	SETBACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 302	TR 2	WATSON BETHANY A &	113 N WILLOW ST	MANSFIELD, TX	76063
ABST 302	TR 2A	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 302	TR 3,4	CASTEVENS 160 ACRES LP	100 NORTH MITCHELL RD	MANSFIELD, TX	76063
ABST 302	TR 3A	MANSFIELD ISD TR ETAL	605 E BROAD	MANSFIELD, TX	76063
ABST 302	TR 3B	MANSFIELD ISD	605 E BROAD ST	MANSFIELD, TX	76063
ABST 311	TR 1,2	UNITED COOPERATIVE SERVICES IN	P O BOX 16	CLEBURNE, TX	76033-0016
ABST 311	TR 3	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063



## Property Owner Notification for ZC # 14-001

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
ABST 311	TR 4	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 4	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 5	SETBACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 5	SETBACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 6	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 6	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 6	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 7	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 7	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 311	TR 8	KITCHEN DON	1463 S 2ND AVE	MANSFIELD, TX	76063-7424
ABST 311	TR 9	KITCHEN DON	1463 S 2ND AVE	MANSFIELD, TX	76063-7424
ABST 60	TR 1A	EDWARDS BRUCE K ETUX CYNTHIA	2505 HOWELL	VENUS, TX	76084
ABST 60	TR 1A	EDWARDS BRUCE K ETUX CYNTHIA	2505 HOWELL	VENUS, TX	76084
ABST 60	TR 1B	BERRY PAUL A ETUX JENNIFER F	2507 HOWELL DR	MANSFIELD, TX	76063
ABST 60	TR 5	DALTONS BEST MAID PRODUCTS INC	P O BOX 1809	FORT WORTH, TX	76101
ABST 83	TR 87	DALTONS BEST MAID PRODUCTS INC	P O BOX 1809	FORT WORTH, TX	76101
ABST 83	TR 88	DALTONS BEST MAID PRODUCTS INC	P O BOX 1809	FORT WORTH, TX	76101
ABST 831	TR 1	SETBACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 831	TR 2	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063

## Property Owner Notification for ZC # 14-001

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
ABST 831	TR 2	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
ABST 831	TR 2A	MANSFIELD ISD	605 E BROAD ST	MANSFIELD, TX	76063
ABST 831	TR 3	WOCHNER LOUIS REVOCABLE TRUST	1200 S MAIN	MANSFIELD, TX	76063
LOT 1	BLK 10	BURKE ROBERT P ETUX	1110 THICKET DR	MANSFIELD, TX	76063
LOT 1	BLK 9	VAUGHAN DANNA S ETVIR WILLIAM	1200 THICKET DR	MANSFIELD, TX	76063
LOT 1 PT	BLK 1	SCHIRA JEFFREY S ETUX MARY G	6500 SILO RD	ARLINGTON, TX	76002
LOT 1 PT	BLK 1	SCHIRA JEFFREY S ETUX MARY G	6500 SILO RD	ARLINGTON, TX	76002
LOT 17	BLK 6	OWENS CHRISTOPHER	1415 FOX GLEN	MANSFIELD, TX	76063
LOT 18	BLK 6	KENT ANTHONY ETUX CHERYL	1414 CHASE TR	MANSFIELD, TX	76063
LOT 18	BLK 7	LANDTROOP JASON ELLIOTT ETUX	1414 FOX GLEN TR	MANSFIELD, TX	76063
LOT 18	BLK 8	LANE VERONICA	1414 CONCHO TR	MANSFIELD, TX	76063
LOT 19	BLK 7	FATHEREE JEREMY S	1415 CONCHO TR	MANSFIELD, TX	76063
LOT 2	BLK 10	WIMBERLY DORIS MC CASLIN	1108 THICKET DR	MANSFIELD, TX	76063
LOT 2	BLK 9	LAM KELLY	1202 THICKET DR	MANSFIELD, TX	76063
LOT 3	BLK 10	MORGAN PATRICIA RENE	1106 THICKET DR	MANSFIELD, TX	76063
LOT 3	BLK 9	EDWARDS AMBER E ETUX ZACHARY	1204 THICKET DR	MANSFIELD, TX	76063
LOT 4	BLK 10	BURTON GEORGE D ETUX MARY L	1104 THICKETT DR	MANSFIELD, TX	76063
LOT 4	BLK 9	RAMIREZ JAVIER & ANA L	1206 THICKET DR	MANSFIELD, TX	76063
LOT 5	BLK 10	VELASCO ANTHONY J & ANTHONY R	1527 STRAW FLOWER	DIAMOND BAR, CA	91765

## Property Owner Notification for ZC # 14-001

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
LOT 5	BLK 9	ALEXANDER DOUGLAS WILLIAM &	1208 THICKET DR	MANSFIELD, TX	76063
LOT 5A	BLK E	SHIOLENO ANTHONY	1715 N PEYCO DR	ARLINGTON, TX	76001
LOT 5B	BLK E	SET BACK PARTNERS	100 N MITCHELL RD	MANSFIELD, TX	76063
LOT 5B	BLK E	RIN CO HOLDINGS LP	1016 W HARRIS RD	ARLINGTON, TX	76001-6806
LOT 6	BLK 10	COX JOSEPH & DANA FAMILY TRUST	1107 BRAMFORD CT	DIAMOND BAR, CA	91765
LOT 9A1	BLK B	SENTRY INDUSTRIAL PARK	1703 N PEYCO DR	ARLINGTON, TX	76017

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO CHANGE THE ZONING ON THE HEREINAFTER DESCRIBED PROPERTIES TO SF-7.5/16, SINGLE-FAMILY RESIDENTIAL; SF-8.4/18, SINGLE-FAMILY RESIDENTIAL; SF-12/22, SINGLE-FAMILY RESIDENTIAL; MF-2, MULTI-FAMILY RESIDENTIAL; AND C-2, COMMUNITY BUSINESS DISTRICT CLASSIFICATIONS, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of the Comprehensive Zoning Ordinance, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to owners of the affected properties, the governing body of the City is of the opinion and finds that the Comprehensive Zoning Ordinance and Map should be amended;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:**

**SECTION 1.**

That the Comprehensive Zoning Ordinance of the City of Mansfield, Texas, be, and the same is hereby, amended by amending the Zoning Map of the City of Mansfield, to give the hereinafter described property new zoning classifications of SF-7.5/16, Single-Family Residential; SF-8.4/18, Single-Family Residential; SF-12/22, Single-Family Residential; MF-2, Multi-Family Residential; and C-2, Community Business District, said property being described in Exhibit "A" attached hereto and made a part hereof for all purposes.

**SECTION 2.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.**

That the above described properties shall be used only in the manner and for the purposes provided for in the Comprehensive Zoning Ordinance of the City, as amended herein by the granting of this zoning classification.

#### **SECTION 4.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

#### **SECTION 5.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

#### **SECTION 6.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**DULY PASSED** on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**David L. Cook, Mayor**

ATTEST:

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**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

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**Allen Taylor, City Attorney**



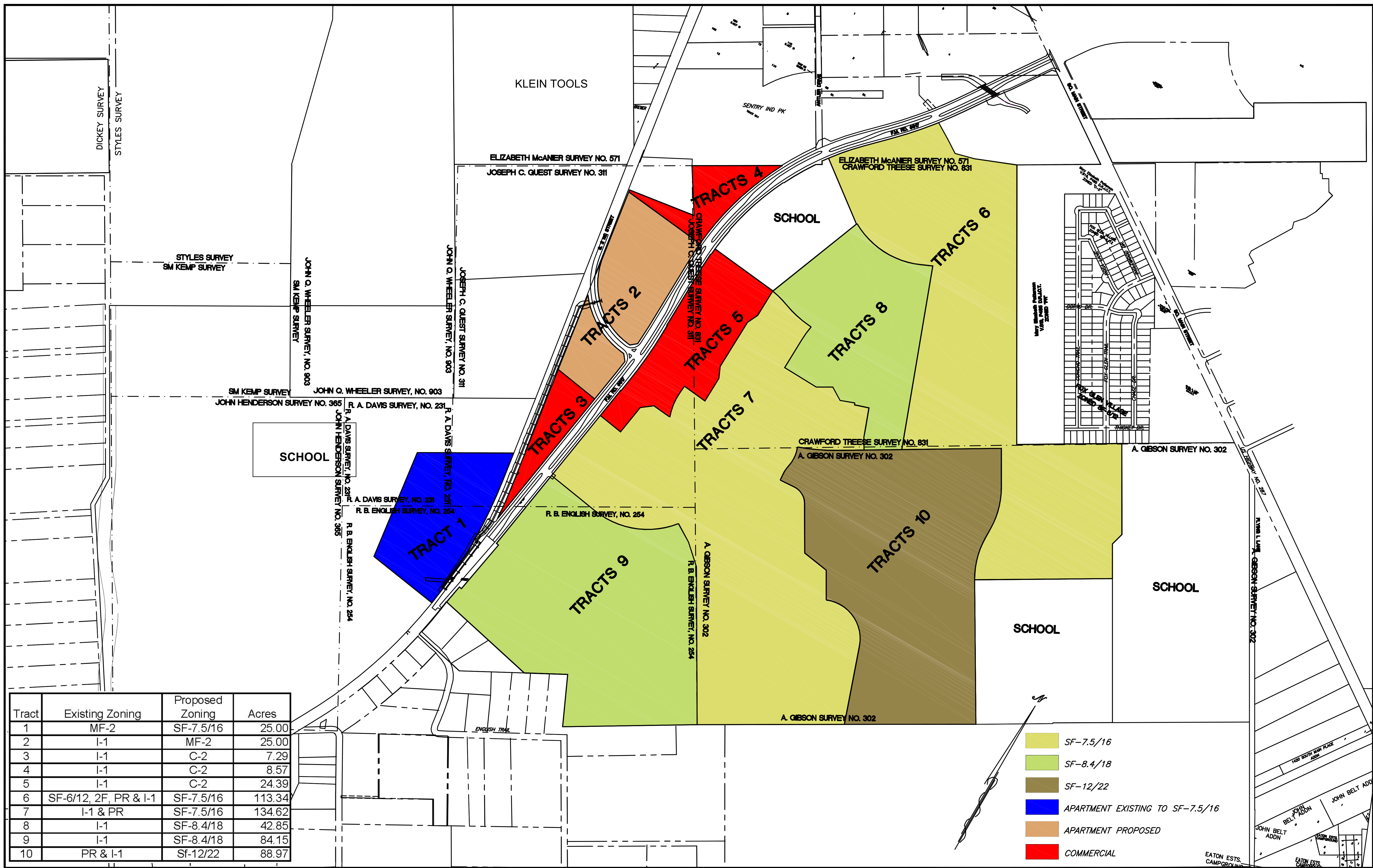




EXHIBIT A  
TRACT 1  
MF-2 TO R-7.5

Being a tract in the R.A. Davis Survey, Abstract 231, R.B. English Survey Abstract 254, and Joseph C. Guest Survey Abstract 311, City of Mansfield, Johnson County, Texas being a portion of the tract of land described in the deed to Set/back Partners, recorded in Volume 2226, Page, 464, Deed Records, Johnson County, Texas and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at a point being S 8°19'11" E 558.47 feet from a 5/8" iron rod found at the Northeast corner of said Set/back Partners tract, also being in the west line of the old F.M. #917 recorded in Volume 421, Page 375 of said deed records;

THENCE S08°19'11"E, a distance of 284.82 feet along said west line to an 1/2" iron rod found for a corner, being the point of curve of a non tangent curve to the right, of which the radius point lies S81°38'21"W, a radial distance of 4,533.66 feet, and has a chord of 1,339.39 feet that bears S00°08'01"W;

THENCE southerly along said arc, through a central angle of 16°59'21", a distance of 1,344.31 feet to a point for a corner;

THENCE N81°22'18"W, a distance of 705.47 feet to a point for a corner;

THENCE N07°20'13"W, a distance of 1,069.92 feet to a point for a corner;

THENCE N60°17'27"E, a distance of 916.46 feet to the POINT OF BEGINNING and containing 25.00 acres, more or less.

TRACTS 2a & 2b  
I-1 to MF-2

TRACT 2a

Being two tracts in the Joseph C. Guest Survey Abstract 311, and Crawford Treese Survey Abstract 831, City of Mansfield, Johnson, Texas conveyed to Setback Partners, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at a TXDOT monument found in the west line of F.M. #917 at the northern corner clip with South 2<sup>nd</sup> Street.

THENCE S50°21'12"W, a distance of 75.87 feet along said corner clip to a TXDOT monument found for a corner;

THENCE N84°14'31"W, a distance of 17.89 feet along the northeastern line of South 2<sup>nd</sup> Street, to a point of curve to the right having a radius of 700.00 feet and a central angle of 77°40'09", and a chord of 877.90 feet that bears N45°24'27"W;

THENCE northwesterly along said arc a distance of 948.91 feet continuing along said South 2<sup>nd</sup> Street to a point for a corner;

THENCE N08°18'19"W, a distance of 663.23 feet continuing along said South 2<sup>nd</sup> Street the southwest corner of a tract conveyed to Robert M. Chenault recorded in Volume 784 Page 405 of the deed records of Johnson County;

THENCE N81°37'42"E, a distance of 342.31 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S17°59'33"W, a radial distance of 1,050.00 feet, and has a chord of 4.61 feet that bears S71°52'54"E;

THENCE easterly along said arc, through a central angle of 00°15'06", a distance of 4.61 feet to a point for a corner;

THENCE S71°45'21"E, a distance of 150.00 feet to a point of curve to the left having a radius of 1,200.00 feet and a central angle of 12°10'06", and a chord of 254.37 feet that bears S77°50'24"E;

THENCE easterly along said arc a distance of 254.85 feet to a point for a corner;

THENCE S83°55'26"E, a distance of 105.00 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S83°55'26"E, a radial distance of 2,728.72 feet, and has a chord of 226.19 feet that bears S03°42'02"W;

THENCE southerly along said arc, through a central angle of 04°45'03", a distance of 226.26 feet to a point for a corner;

THENCE S01°19'30"W, a distance of 736.68 feet to a point of curve to the right having a radius of 3,940.00 feet and a central angle of 02°55'12", and a chord of 200.77 feet that bears S02°47'06"W;

THENCE southerly along said arc a distance of 200.80 feet to a point for a corner; being the POINT OF BEGINNING and containing 19.43 acres, more or less.

AND TRACT 2b

Beginning at a TXDOT monument found in the west line of F.M. #917 at the southern corner clip with South 2<sup>nd</sup> Street point, said point being the beginning of a curve to the right, of which the radius point lies N82°43'44"W, a radial distance of 3,940.00 feet and a chord of 123.20 feet that bears S08°10'01"W;

THENCE southerly along the arc, through a central angle of 01°47'30", a distance of 123.21 feet to a TXDOT monument found point for a corner;

THENCE S09°03'46"W, a distance of 222.33 feet continuing along said west line of F.M. #917 to for a corner;

THENCE N80°56'14"W, a distance of 480.97 feet to a point for a corner;

THENCE N08°21'42"W, a distance of 644.24 feet to the point of curve of a non tangent curve to the left, of which the radius point lies N52°39'43"E, a radial distance of 800.00 feet, and has a chord of 636.77 feet that bears S60°47'24"E, and being in the south line of said South 2<sup>nd</sup> Street;

THENCE southeasterly along said arc and south line of South 2<sup>nd</sup> Street, through a central angle of 46°54'14", a distance of 654.90 feet to a TXDOT monument found for a corner;

THENCE S84°14'31"E, a distance of 17.90 feet to a point for a corner;

THENCE S38°49'23"E, a distance of 75.87 feet to the POINT OF BEGINNING and containing 5.57 acres, more or less.



TRACT 3  
I-1 TO C-2

Being a tract in the Joseph C Guest Survey Abstract 311 and the R.B. English Survey Abstract 254, City of Mansfield, Johnson County, Texas according to the deeds recorded in Volume 2207 Page 816, and Volume 2241 Page 33 of the Deed Records of Johnson County, Texas, and being more particularly described as follows with bearings related to nad 83 GRID BEARINGS;

Beginning at a TXDOT monument found at the Intersection of the west line of F.M. #917 and the east line of the old South 2<sup>nd</sup> Street recorded in Volume 421 Page 384 of said deed records, said point being the beginning of a curve to the left, of which the radius point lies S85°58'18"W, a radial distance of 4,633.10 feet and a chord of 350.50 feet that bears N06°11'46"W;

THENCE northerly along the arc and said east line of old South 2<sup>nd</sup> Street, through a central angle of 04°20'08", a distance of 350.59 feet to a point for a corner;

THENCE N08°22'19"W, a distance of 1,005.94 feet continuing along said east line to a point for a corner;

THENCE N08°21'42"W, a distance of 173.40 feet to a point for a corner;

THENCE S80°56'14"E, a distance of 445.57 feet to a point for a corner in said west line of F.M. #917;

THENCE S09°03'46"W, a distance of 1,463.31 feet along said west the POINT OF BEGINNING and containing 7.29 acres, more or less.

TRACT 4  
I-1 to C-2

Being a tract in the Joseph Guest Survey Abstract 311, and Crawford Treese Survey Abstract 831, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at the intersection of the north line of said Setback Partners tract and the west line of F.M. #917, said point being the beginning of a curve to the left, of which the radius point lies S62°02'41"E, a radial distance of 2,728.72 feet and a chord of 1,079.83 feet that bears S16°32'36"W;

THENCE southerly along the arc, through a central angle of 22°49'27", a distance of 1,087.00 feet to a point for a corner;

THENCE N83°55'26"W, a distance of 836.03 feet to a point for a corner;

THENCE N08°18'19"W, a distance of 19.75 feet to the apparent southwest corner of a tract conveyed to Robert M. Chenault recorded in Volume 784 Page 405 of said Deed Records;

THENCE N81°37'42"E, a distance of 658.82 feet along the south line of said Chenault tract to a point for a corner;

THENCE N32°17'15"W, a distance of 473.96 feet along the east line of said Chenault tract to a point for a corner;

THENCE N59°54'46"E, a distance of 858.73 feet to a point for a corner;

THENCE North, a distance of 0.00 feet to a point for a corner; being the POINT OF BEGINNING and 8.57 acres, more or less.

TRACT 5  
I-1 to C-2

Being a tract in the Joseph C. Guest Survey Abstract 311 and Crawford Treese Survey Abstract 831, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, recorded in Book 2207 Page 816, of the Deed Records of Johnson County, Texas, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at an ½ " iron rod set by Herbert S. Beasley Land Surveyors at the southwest corner of a twenty acre tract conveyed to the M.I.S.D.;

THENCE S83°56'58"E, a distance of 680.44 feet along the south line of said M.I.S.D. tract to a point for a corner;

THENCE S04°46'22"W, a distance of 37.00 feet to a point for a corner;

THENCE S01°36'32"W, a distance of 235.17 feet to a point for a corner;

THENCE S25°20'38"W, a distance of 118.60 feet to a point for a corner;

THENCE S01°46'57"W, a distance of 492.50 feet to a point for a corner;

THENCE S23°59'06"E, a distance of 113.96 feet to a point for a corner;

THENCE S01°36'32"W, a distance of 252.56 feet to a point for a corner;

THENCE N84°14'31"W, a distance of 239.36 feet to a point for a corner;

THENCE S05°45'29"W, a distance of 60.78 feet to a point for a corner;

THENCE S06°04'21"W, a distance of 19.16 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S86°02'32"E, a radial distance of 610.00 feet, and has a chord of 246.85 feet that bears S07°42'57"E;

THENCE southerly along said arc, through a central angle of 23°20'50", a distance of 248.57 feet to a point for a corner;

THENCE N84°14'31"W, a distance of 185.62 feet to a point for a corner;

THENCE S52°24'37"W, a distance of 130.90 feet to a point for a corner;

THENCE S09°03'46"W, a distance of 297.55 feet to a point for a corner;

THENCE N80°56'14"W, a distance of 247.11 feet to a point for a corner in the east line of F.M. #917;

THENCE N09°03'46"E, a distance of 306.98 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE S80°56'14"E, a distance of 5.00 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N09°03'46"E, a distance of 116.19 feet continuing along said east line of F.M. #917 to the point of curve to the left having a radius of 4,085.00 feet and a central angle of 07°44'16", and a chord of 551.26 feet that bears N05°11'38"E;

THENCE northerly along said arc a distance of 551.68 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N01°19'30"E, a distance of 92.28 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N88°40'30"W, a distance of 5.00 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N01°19'30"E, a distance of 644.40 feet continuing along said east line of F.M. #917 to the point of curve to the right having a radius of 2,588.72 feet and a central angle of 03°21'12", and a chord of 151.49 feet that bears N03°00'06"E;

THENCE northerly along said arc a distance of 151.51 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE S85°19'18"E, a distance of 5.00 feet continuing along said east line of F.M. #917 to the point of curve of a non tangent curve to the right, of which the radius point lies S85°19'18"E, a radial distance of 2,583.72 feet, and has a chord of 62.68 feet that bears N05°22'24"E;

THENCE northerly along said arc, through a central angle of 01°23'24", a distance of 62.68 feet to the POINT OF BEGINNING and containing 24.39 acres, more or less.

TRACT 6  
PR,2F & I-1 to SF-7.5/16

Being a tract in the Elizabeth McAnear Survey Abstract 571, Crawford Treese Survey Abstract 831, and A. Gibson Survey Abstract 302, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at an ½" iron rod set by Herbert S. Beasley Land Surveyors at the intersection of the north line of a tract conveyed to M.I.S.D. recorded in Volume 567 Page 3858 DRJCT and the east line of F.M. #917, said point being the beginning of a curve to the right, of which the radius point lies S52°58'35"E, a radial distance of 2,588.72 feet and a chord of 353.06 feet that bears N40°56'02"E;

THENCE northeasterly along the arc, through a central angle of 07°49'13", a distance of 353.33 feet along said east line of F.F. #917 to a TXDOT monument found for a corner;

THENCE N44°50'38"E, a distance of 270.57 feet to a TXDOT monument found being a point of curve to the left having a radius of 4,080.00 feet and a central angle of 06°41'11", and a chord of 475.86 feet that bears N41°30'02"E;

THENCE northeasterly along said arc a distance of 476.13 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE S58°52'50"E, a distance of 173.20 feet to a point for a corner;

THENCE S57°12'23"E, a distance of 159.19 feet to a point for a corner;

THENCE N75°03'53"E, a distance of 191.13 feet to a point for a corner;

THENCE N68°18'05"E, a distance of 407.21 feet to the northwest corner of a tract conveyed to Mary Elizabeth Patterson recorded in Volume 616 Page 485 of the Deed Records of Johnson County;

THENCE S29°57'29"E, a distance of 2,656.30 feet along the west line of said Patterson tract, to a 5/8" iron rod found point for a corner;

THENCE N59°27'58"E, a distance of 998.57 feet to the north west corner of a tract conveyed to M.I.S.D.;

THENCE S30°01'28"E, a distance of 864.64 feet along the western line of said M.I.S.D tract, to a point for a corner;

THENCE S14°58'32"W, a distance of 127.01 feet continuing along said western line of said M.I.S.D tract, to a point for a corner;

THENCE S30°01'28"E, a distance of 329.11 feet to a point in the north line of a tract



conveyed to M.I.S.D.;

THENCE S59°30'02"W, a distance of 1,309.40 feet along said north line of M.I.S.D tract to a the point of curve of a non tangent curve to the right, of which the radius point lies N59°30'02"E, a radial distance of 800.00 feet, and has a chord of 412.14 feet that bears N15°34'20"W;

THENCE northerly along said arc, through a central angle of 29°51'15", a distance of 416.84 feet to a point for a corner;

THENCE N00°38'43"W, a distance of 98.69 feet to a point of curve to the left having a radius of 800.00 feet and a central angle of 29°18'46", and a chord of 404.83 feet that bears N15°18'06"W;

THENCE northerly along said arc a distance of 409.28 feet to a point for a corner;

THENCE N29°57'29"W, a distance of 372.15 feet to a point for a corner;

THENCE S59°17'31"W, a distance of 945.93 feet to a point for a corner;

THENCE N20°25'51"W, a distance of 1,769.46 feet to a point for a corner;

THENCE S66°10'22"W, a distance of 116.21 feet to a point for a corner; being a point of curve to the right having a radius of 800.00 feet and a central angle of 53°23'19", and a chord of 718.77 feet that bears N87°07'58"W;

THENCE westerly along said arc a distance of 745.45 feet to a point for a corner;

THENCE S21°16'41"W, a distance of 7.03 feet to a point for a corner;

THENCE N52°58'47"W, a distance of 680.43 feet to the POINT OF BEGINNING and containing 113.34 acres, more or less.

TRACT 7  
PR & I-1 to SF 7.5/16

Being a tract in the Joseph C. Guest Survey Abstract 311, Crawford Treese Survey Abstract 831, A Gibson Survey Abstract 302, and R.B. English survey Abstract 254, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, and Bethany A. Watson, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at an ½" iron rod set by Herbert S. Beasley at the southeast corner of a 20.00 acre tract conveyed to MISD and recorded in Volume 567 Page 3858 DRJCT, said point being the beginning of a curve to the right, of which the radius point lies S09°34'55"W, a radial distance of 1,000.00 feet and a chord of 190.26 feet that bears S74°57'33"E;

THENCE easterly along the arc, through a central angle of 10°55'04", a distance of 190.55 feet to a point of reverse curve to the left having a radius of 1,000.00 feet and a central angle of 15°56'33" and a chord of 277.35 feet that bears S77°28'18"E;

THENCE easterly along said arc, a distance of 278.25 feet to a point for a corner;

THENCE S85°26'34"E, a distance of 30.46 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S79°35'57"E, a radial distance of 1,000.00 feet, and has a chord of 153.29 feet that bears S06°00'18"W;

THENCE southerly along said arc, through a central angle of 08°47'30", a distance of 153.44 feet to a point for a corner;

THENCE S01°36'32"W, a distance of 308.62 feet to a point for a corner;

THENCE S88°23'28"E, a distance of 352.11 feet to a point for a corner;

THENCE N60°02'08"E, a distance of 157.42 feet to a point for a corner;

THENCE S58°39'01"E, a distance of 145.08 feet to a point for a corner;

THENCE N69°34'09"E, a distance of 142.70 feet to the point of curve of a non tangent curve to the left, of which the radius point lies N75°39'27"E, a radial distance of 301.00 feet, and has a chord of 19.45 feet that bears S16°11'37"E;

THENCE southerly along said arc, through a central angle of 03°42'09", a distance of 19.45 feet to a point for a corner;

THENCE N69°34'09"E, a distance of 25.02 feet to a point for a corner;

THENCE N72°10'16"E, a distance of 116.00 feet to a point for a corner;

THENCE S20°23'04"E, a distance of 203.56 feet to a point for a corner;

THENCE S19°23'37"E, a distance of 78.20 feet to a point for a corner;

THENCE S30°42'29"E, a distance of 122.75 feet to a point for a corner;

THENCE S59°17'31"W, a distance of 249.02 feet to a point of curve to the right having a radius of 2,000.00 feet and a central angle of 11°02'07", and a chord of 384.61 feet that bears S64°48'34"W;

THENCE southwesterly along said arc a distance of 385.20 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S67°37'15"W, a radial distance of 330.00 feet, and has a chord of 196.32 feet that bears S05°04'29"E;

THENCE southerly along said arc, through a central angle of 34°36'33", a distance of 199.33 feet to a point of reverse curve to the left having a radius of 345.00 feet and a central angle of 17°38'26" and a chord of 105.80 feet that bears S03°24'35"W;

THENCE southerly along said arc, a distance of 106.22 feet to a point of reverse curve to the right having a radius of 2,450.00 feet and a central angle of 01°15'10" and a chord of 53.57 feet that bears S04°47'03"E;

THENCE southerly along said arc, a distance of 53.57 feet to a point for a corner;

THENCE N85°59'59"E, a distance of 148.52 feet to a point of curve to the right having a radius of 175.00 feet and a central angle of 63°51'45", and a chord of 185.12 feet that bears S62°04'08"E;

THENCE southeasterly along said arc a distance of 195.06 feet to a point for a corner;

THENCE S30°08'16"E, a distance of 470.35 feet to a point for a corner;

THENCE S81°19'51"E, a distance of 260.96 feet to a point for a corner;

THENCE S30°14'20"E, a distance of 283.36 feet to the point of curve of a non tangent curve to the right, of which the radius point lies S22°30'37"E, a radial distance of 370.00 feet, and has a chord of 538.51 feet that bears S65°48'52"E;

THENCE southeasterly along said arc, through a central angle of 93°23'30", a distance of 603.10 feet to a point for a corner;

THENCE S19°07'07"E, a distance of 759.14 feet to a point for a corner in the south line of said Setback Partners tract;

THENCE S59°54'12"W, a distance of 1,398.88 feet along the south line of said Watson tract, to a point for a corner;

THENCE N30°14'20"W, a distance of 1,500.04 feet to a point for a corner;

THENCE N47°52'47"W, a distance of 245.73 feet to a point for a corner;

THENCE N58°24'46"W, a distance of 199.99 feet to the point of curve of a non tangent curve to the right, of which the radius point lies N51°21'56"W, a radial distance of 800.00 feet, and has a chord of 805.17 feet that bears S68°50'55"W;

THENCE westerly along said arc, through a central angle of 60°25'42", a distance of 843.74 feet to a point for a corner;

THENCE N80°56'14"W, a distance of 528.74 feet to a point for a corner in the east line of F.M. #917;

THENCE N09°03'46"E, a distance of 735.00 feet along said east line of F.M. #917 to a point for a corner;

THENCE S80°56'14"E, a distance of 247.11 feet to a point for a corner;

THENCE N09°03'46"E, a distance of 297.55 feet to a point for a corner;

THENCE N52°24'37"E, a distance of 130.90 feet to a point for a corner;

THENCE S84°14'31"E, a distance of 185.62 feet to a point for a corner; being the point of curve of a non tangent curve to the right, of which the radius point lies N70°36'38"E, a radial distance of 610.00 feet, and has a chord of 246.85 feet that bears N07°42'57"W;

THENCE northerly along said arc, through a central angle of 23°20'50", a distance of 248.57 feet to a point for a corner;

THENCE N06°04'21"E, a distance of 19.16 feet to a point for a corner;

THENCE N05°45'29"E, a distance of 60.78 feet to a point for a corner;

THENCE S84°14'31"E, a distance of 239.36 feet to a point for a corner;

THENCE N01°36'32"E, a distance of 252.56 feet to a point for a corner;

THENCE N23°59'06"W, a distance of 113.96 feet to a point for a corner;

THENCE N01°46'57"E, a distance of 492.50 feet to a point for a corner;

THENCE N25°20'38"E, a distance of 118.60 feet to a point for a corner;

THENCE N01°36'32"E, a distance of 235.17 feet to a point for a corner;

THENCE N04°46'22"E, a distance of 35.13 feet to the POINT OF BEGINNING and containing 134.62 acres, more or less.



TRACT 8  
I-1 to SF- 8.4/18

Being a tract in the Crawford Treese Survey Abstract 831 and A. Gibson Survey Abstract 302, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at an ½" iron rod set by Herbert S. Beasley Land Surveyors at the southeast corner of a 20.00 acre tract conveyed to M.I.S.D. recorded in Volume 567 Page 3858 D.R.J.C.T.

THENCE N21°14'54"E, a distance of 1,025.83 feet along the east line of said M.I.S.D tract to the point of curve of a non tangent curve to the left, of which the radius point lies N29°33'41"E, a radial distance of 800.00 feet, and has a chord of 718.77 feet that bears S87°07'58"E;

THENCE easterly along said arc, through a central angle of 53°23'19", a distance of 745.45 feet to a point for a corner;

THENCE N66°10'22"E, a distance of 116.21 feet to a point for a corner;

THENCE S20°25'51"E, a distance of 1,769.46 feet to a point for a corner;

THENCE S59°17'31"W, a distance of 358.98 feet to a point for a corner;

THENCE N30°42'29"W, a distance of 122.75 feet to a point for a corner;

THENCE N19°23'37"W, a distance of 78.20 feet to a point for a corner;

THENCE N20°23'04"W, a distance of 203.56 feet to a point for a corner;

THENCE S72°10'16"W, a distance of 116.00 feet to a point for a corner;

THENCE S69°34'09"W, a distance of 25.02 feet to the point of curve of a non tangent curve to the right, of which the radius point lies N71°57'18"E, a radial distance of 301.00 feet, and has a chord of 19.45 feet that bears N16°11'37"W;

THENCE northerly along said arc, through a central angle of 03°42'09", a distance of 19.45 feet to a point for a corner;

THENCE S69°34'09"W, a distance of 142.70 feet to a point for a corner;

THENCE N58°39'01"W, a distance of 145.08 feet to a point for a corner;

THENCE S60°02'08"W, a distance of 157.42 feet to a point for a corner;

THENCE N88°23'28"W, a distance of 352.11 feet to a point for a corner;

THENCE N01°36'32"E, a distance of 308.62 feet to a point of curve to the right having a radius of 1,000.00 feet and a central angle of 08°47'30", and a chord of 153.29 feet that bears N06°00'17"E;

THENCE northerly along said arc a distance of 153.44 feet to a point for a corner;

THENCE N85°26'34"W, a distance of 30.46 feet to a point of curve to the right having a radius of 1,000.00 feet and a central angle of 15°56'33", and a chord of 277.35 feet that bears N77°28'17"W;

THENCE westerly along said arc a distance of 278.25 feet to a point of reverse curve to the left having a radius of 1,000.00 feet and a central angle of 10°55'04" and a chord of 190.26 feet that bears N74°57'33"W;

THENCE westerly along said arc, a distance of 190.55 feet to the POINT OF BEGINNING and containing 42.85 acres, more or less.

TRACT 9  
I-1 to SF 8.4/18

Being a tract in the R.A. Davis Survey Abstract 231 and R.B. English Survey Abstract 254, City of Mansfield, Tarrant County, Texas conveyed to Setback Partners, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at the intersection of the south line of Setback Partners tract and the east line of F.M. #917,

THENCE N10°23'42"E, a distance of 187.03 feet along said east line of F.M. #917 to a point for a corner;

THENCE S79°36'18"E, a distance of 25.00 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N10°23'42"E, a distance of 543.54 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N79°36'18"W, a distance of 25.00 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE N09°03'46"E, a distance of 830.17 feet continuing along said east line of F.M. #917 to a point for a corner;

THENCE S80°56'14"E, a distance of 528.74 feet to a point of curve to the left having a radius of 800.00 feet and a central angle of 60°25'42", and a chord of 805.17 feet that bears N68°50'55"E;

THENCE easterly along said arc a distance of 843.74 feet to a point for a corner;

THENCE S58°24'46"E, a distance of 199.99 feet to a point for a corner;

THENCE S47°52'47"E, a distance of 245.73 feet to a point for a corner;

THENCE S30°14'20"E, a distance of 1,500.04 feet to a point in the south line of said Setback Properties tract for a corner;

THENCE S59°06'27"W, a distance of 1,278.01 feet along the south line of said setback Properties Tract to a point for a corner;

THENCE N24°28'33"W, a distance of 499.77 feet along a western line of said Setback Partners tract to a point for a corner;

THENCE S61°52'28"W, a distance of 412.20 feet along the south line of said Setback Properties tract to a point for a corner;

THENCE N77°33'20"W, a distance of 999.91 feet along the south line of said Setback Partners tract the POINT OF BEGINNING and containing 84.15 acres, more or less.

TRACT 10  
PR & I-1 to SF-12/22

Being a tract in the Crawford Treese Survey Abstract 831 and A. Gibson Survey Abstract 302, City of Mansfield, Johnson County, Texas conveyed to Setback Partners, recorded in Volume 2169 Page 160 of the Deed Records of Johnson County, Texas, and being more particularly described as follows with bearings related to NAD 83 grid bearings;

Beginning at a point in the south line of said Setback partners tract at the southwest corner of a tract conveyed to M.I.S.D. also being in the south line of said Gibson Survey,

THENCE S59°56'03"W, a distance of 1,249.14 feet along said south line of Setback Partners tract to a point for a corner;

THENCE N19°07'07"W, a distance of 759.14 feet to a point of curve to the left having a radius of 370.00 feet and a central angle of 93°23'30", and a chord of 538.51 feet that bears N65°48'52"W;

THENCE northwesterly along said arc a distance of 603.10 feet to a point for a corner;

THENCE N30°14'20"W, a distance of 283.36 feet to a point for a corner;

THENCE N81°19'51"W, a distance of 260.96 feet to a point for a corner;

THENCE N30°08'16"W, a distance of 470.35 feet to a point of curve to the left having a radius of 175.00 feet and a central angle of 63°51'45", and a chord of 185.12 feet that bears N62°04'08"W;

THENCE northwesterly along said arc a distance of 195.06 feet to a point for a corner;

THENCE S85°59'59"W, a distance of 148.52 feet to the point of curve of a non tangent curve to the left, of which the radius point lies S85°50'34"W, a radial distance of 2,450.00 feet, and has a chord of 53.57 feet that bears N04°47'01"W;

THENCE northerly along said arc, through a central angle of 01°15'10", a distance of 53.57 feet to a point of reverse curve to the right having a radius of 345.00 feet and a central angle of 17°38'26" and a chord of 105.80 feet that bears N03°24'37"E;

THENCE northerly along said arc, a distance of 106.22 feet to a point of reverse curve to the left having a radius of 330.00 feet and a central angle of 34°36'33" and a chord of 196.32 feet that bears N05°04'27"W;



THENCE northerly along said arc, a distance of 199.33 feet to the point of curve of a non tangent curve to the left, of which the radius point lies N19°40'20"W, a radial distance of 2,000.00 feet, and has a chord of 384.61 feet that bears N64°48'37"E;  
THENCE northeasterly along said arc, through a central angle of 11°02'07", a distance of 385.20 feet to a point for a corner;

THENCE N59°17'31"E, a distance of 1,553.93 feet to a point for a corner;

THENCE S29°57'29"E, a distance of 372.15 feet to a point of curve to the right having a radius of 800.00 feet and a central angle of 29°18'46", and a chord of 404.83 feet that bears S15°18'06"E;

THENCE southerly along said arc a distance of 409.28 feet to a point for a corner;

THENCE S00°38'43"E, a distance of 98.69 feet to a point of curve to the left having a radius of 800.00 feet and a central angle of 29°51'15", and a chord of 412.14 feet that bears S15°34'20"E;

THENCE southerly along said arc a distance of 416.84 feet to a point for a corner;

THENCE S30°29'58"E, a distance of 1,372.42 feet to the POINT OF BEGINNING and containing or 88.97 acres, more or less.









# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0844

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**Agenda Date:** 3/24/2014

**Version:** 2

**Status:** Second Reading

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

**Title**

Ordinance - Public Hearing Continuation and Second Reading on an Ordinance Approving a Zoning Change from PR to C-2 on Approximately 10.5 Acres, Generally Located at the Southeast Corner of E Debbie Lane and Matlock Road; Hijo, Ltd. (ZC#14-003)

**Requested Action**

To consider the subject zoning change request.

**Recommendation**

The Planning and Zoning Commission held a public hearing on February 18, 2014, and voted 6-0 to recommend approval. Commissioner Polozola was absent.

**Description/History**

The property is vacant, with the exception of the hard corner currently occupied by Chase Bank (not part of the zoning change request). The applicant has proposed to develop the tract for a specialty grocery store and pad sites. The 2012 Land Use Plan encourages retail and service uses be added at a neighborhood level.

**Prepared By**

Felix Wong, Director of Planning  
817-276-4228

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO CHANGE THE ZONING ON THE HEREINAFTER DESCRIBED PROPERTIES TO C-2, COMMUNITY BUSINESS DISTRICT CLASSIFICATION, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of the Comprehensive Zoning Ordinance, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to owners of the affected properties, the governing body of the City is of the opinion and finds that the Comprehensive Zoning Ordinance and Map should be amended;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:**

**SECTION 1.**

That the Comprehensive Zoning Ordinance of the City of Mansfield, Texas, be, and the same is hereby, amended by amending the Zoning Map of the City of Mansfield, to give the hereinafter described property a new zoning classification of C-2, Community Business District Classification, said property being described in Exhibit "A" attached hereto and made a part hereof for all purposes.

**SECTION 2.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.**

That the above described properties shall be used only in the manner and for the purposes provided for in the Comprehensive Zoning Ordinance of the City, as amended herein by the granting of this zoning classification.

#### **SECTION 4.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

#### **SECTION 5.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

#### **SECTION 6.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**DULY PASSED** on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**David L. Cook, Mayor**

ATTEST:

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**Vicki Collins, City Secretary**

APPROVED AS TO FORM AND LEGALITY

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**Allen Taylor, City Attorney**



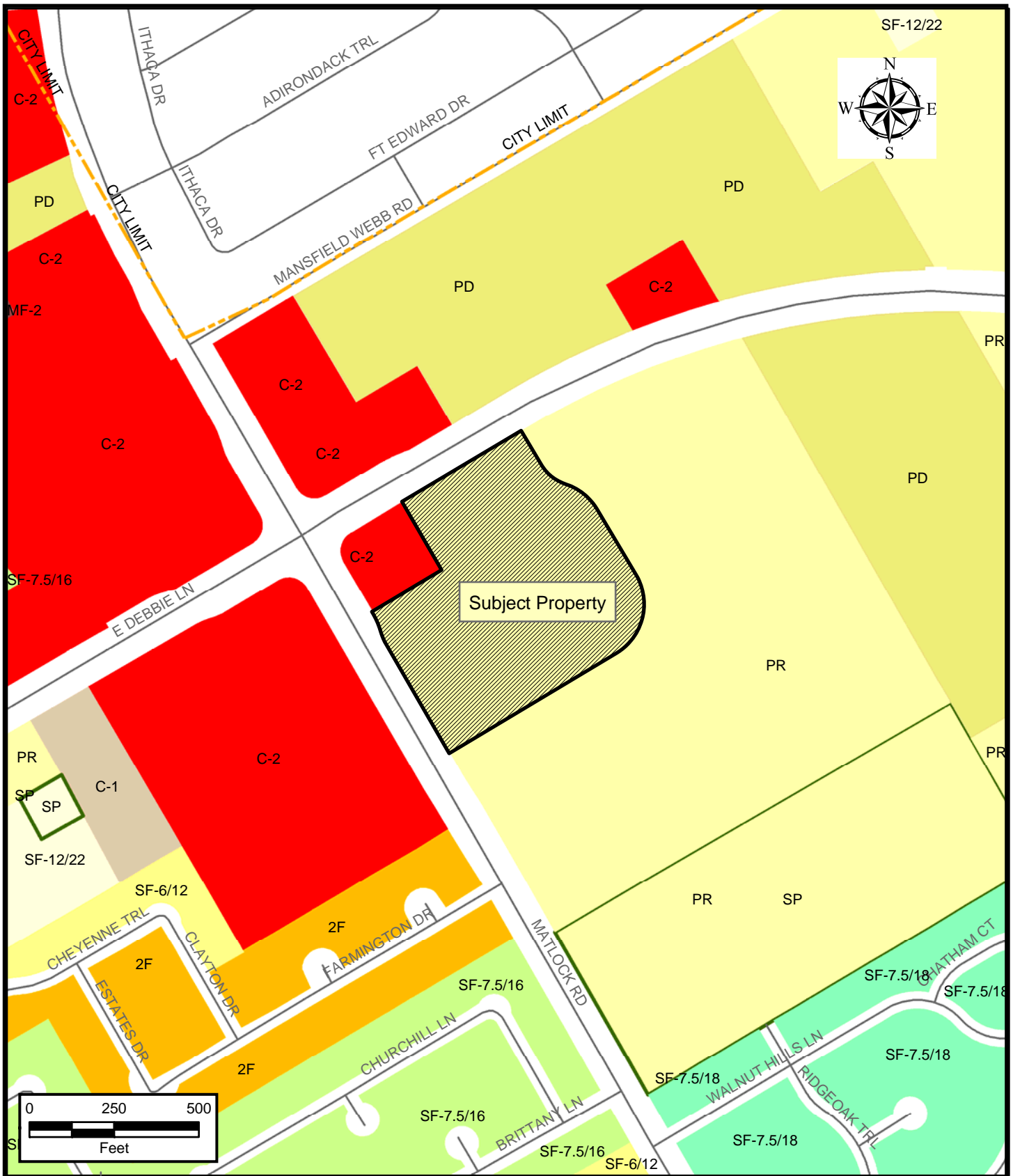


This information is for illustrative purposes only. Not for design or development purposes. Site-specific studies may be required to obtain accurate feature locations. Every effort is made to ensure the information displayed here is accurate; however, the City of Mansfield makes no claims to its accuracy or completeness.

02/05/2014

**ZC # 14-003**





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02/05/2014

**ZC # 14-003**

## Property Owner Notification for ZC # 14-003

LEGAL DESC 1	LEGAL DESC 2	OWNER NAME	OWNER ADDRESS	CITY	ZIP
GRIMSLEY, JAMES SURVEY	A 578 TR 1	WEATHERFORD HOLLAND FAMILY PTN	4704 BARKRIDGE TRL	FORT WORTH, TX	76109-3210
GRIMSLEY, JAMES SURVEY	A 578 TR 1B02	WEATHERFORD HOLLAND FAM	4704 BARKRIDGE TRL	FORT WORTH, TX	76109-3210
HOLLAND FARM ADDITION	BLK 1 LOT 1	WEATHERFORD HOLLAND FAMILY PTN	4704 BARKRIDGE TRL	FORT WORTH, TX	76109-3210
LIFETIME MANSFIELD	BLK LOT 2	LTF REAL ESTATE COMPANY INC	2902 CORPORATE PL	CHANHASSEN, MN	55317-4560
LIFETIME MANSFIELD	BLK LOT 3	PROFESSIONAL RESOURCE DEV	1200 NETWORK CENTRE DR STE 2	EFFINGHAM, IL	62401-4637
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 1R	WAL-MART REAL ESTATE BUS TRUST	PO BOX 8050	BENTONVILLE, AR	72712-8055
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 2	MURPHY OIL USA INC	PO BOX 7300	EL DORADO, AR	71731-7300
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 3R1A	WELLS FARGO BANK NA	1717 MAIN ST STE 900	DALLAS, TX	75201-4687
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 3R1B	WELLS FARGO BANK NA	1717 MAIN ST STE 900	DALLAS, TX	75201-4687
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 4R1	P D MATLOCK CENTER LLC	5700 LEGACY DR STE 10	PLANO, TX	75024-7133
WAL-MART NEIGHBORHOOD MKT ADDN	BLK 1 LOT 5	BANK OF AMERICA TEXAS NA	401 N TYRON ST	CHARLOTTE, NC	28255-0001
WEATHERFORD ADDITION	BLK 1 LOT 1	JPMORGAN CHASE BANK	575 WASHINGTON BLVD FL 4TH	JERSEY CITY, NJ	07310-1616

## EXHIBIT A

### LEGAL LAND DESCRIPTION:

BEING 10.114 acres (440,548 square feet) of land in the James Grimsley Survey, Abstract No. 578, City of Mansfield, Tarrant County, Texas; said 10.114 acres (440,548 square feet) of land being a portion of that certain tract of land described in a Warranty Deed to Weatherford Holland Management, L.L.C., Morreta Ann Weatherford and James A. Weatherford, Managers, as recorded in Instrument No. D204209786, Deed Records, Tarrant County, Texas (D.R.T.C.T.) and being a portion of that certain tract of land described in a Warranty Deed to Morreta Ann Holland Weatherford (both references hereinafter referred to as Weatherford Holland tract), as recorded in Instrument No. D204209784, D.R.T.C.T.; said 7.560 acres (329,333 square feet) being more particularly described, by metes and bounds, as follows:

BEGINNING at a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the Northerly corner of that certain tract of land described as Lot 1, Block 1, Weatherford Addition, an addition to the City of Mansfield, Tarrant County, Texas, according to the plat recorded in Cabinet A, Slide 10775, Plat Records, Tarrant County, Texas, same being the common line between the remaining portion of said Weatherford Holland tract and the existing Southeasterly right-of-way line of Debbie Lane (variable width right-of-way), as recorded in Instrument No. D202236726, D.R.T.C.T.;

THENCE North 59 degrees 17 minutes 13 seconds East with the common line between the remaining portion of said Weatherford Holland tract and the existing Southeasterly right-of-way line of said Debbie Lane, a distance of 408.51 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set;

THENCE South 30 degrees 42 minutes 47 seconds East departing the existing Southeasterly right-of-way line of said Debbie Lane and crossing said Weatherford Holland tract, a distance of 115.23 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the beginning of a curve to the left whose long chord bears South 51 degrees 18 minutes 07 seconds East, a distance of 92.84 feet;

THENCE Southeasterly continue crossing said Weatherford Holland tract and with said curve to the left having a radius of 132.00 feet, through a central angle of 41 degrees 10 minutes 41 seconds, for an arc distance of 94.87 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the beginning of a curve to the right whose long chord bears South 51 degrees 22 minutes 48 seconds East, a distance of 117.73 feet;

THENCE Southeasterly continue crossing said Weatherford Holland tract and with said curve to the right having a radius of 168.00 feet, through a central angle of 41 degrees 01 minute 19 seconds, for an arc distance of 120.28 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set;

THENCE South 30 degrees 52 minutes 08 seconds East continue crossing said Weatherford Holland tract, a distance of 225.11 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the beginning of a curve to the right whose long chord bears South 14 degrees 07 minutes 52 seconds West, a distance of 237.59 feet;

THENCE Southerly continue crossing said Weatherford Holland tract with said curve to the right having a radius of 168.00 feet, through a central angle of 90 degrees 00 minutes 00 seconds, for an arc distance of 263.89 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set;

THENCE South 59 degrees 07 minutes 52 seconds West continue crossing said Weatherford Holland tract, a distance of 574.33 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set in the existing Northeasterly right-of-way line of Matlock Road (variable width right-of-way), as recorded in Instrument No. D199035014, D.R.T.C.T.;

THENCE with the common line between the existing Northeasterly right-of-way line of said Matlock Road and the remaining portion of said Weatherford Holland tract for the following 4 courses:

1. North 30 degrees 08 minutes 57 seconds West, a distance of 367.47 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the beginning of a curve to the right whose long chord bears North 23 degrees 18 minutes 24 seconds West, a distance of 47.26 feet;
2. Northwesterly with said curve to the right having a radius of 198.33 feet, through a central angle of 13 degrees 41 minutes 06 seconds, for an arc distance of 47.37 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the beginning of a curve to the left whose long chord bears North 23 degrees 18 minutes 24 seconds West, a distance of 53.45 feet;
3. Northwesterly with said curve to the left having a radius of 224.33 feet, through a central angle of 13 degrees 41 minutes 06 seconds, an arc distance of 53.58 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set;
4. North 30 degrees 08 minutes 57 seconds West, a distance of 7.48 feet to a five-eighths inch iron rod with plastic cap stamped "RPLS 4838" set for the Southerly corner of the aforesaid Lot 1;

THENCE North 59 degrees 17 minutes 13 seconds East with the common line between said Lot 1 and the remaining portion of said Weatherford Holland tract, a distance of 239.58 feet to a one-half inch iron rod found for the Easterly corner of said Lot 1;

THENCE North 30 degrees 08 minutes 57 seconds West continue with the common line between said Lot 1 and the remaining portion of said Weatherford Holland tract, a distance of 232.64 feet to the PLACE OF BEGINNING, and containing a calculated area of 10.114 acres (440,548 square feet) of land.



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0864

**Agenda Date:** 3/24/2014

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Consideration Item

**Agenda Number:**

**Title**

Consideration and Possible Action to Suspend the Procedural Rules of Council and Reschedule the Regular City Council Meeting of April 28, 2014 to April 29, 2014

**Requested Action**

Consider the suspension of the Procedural Rules of Council as set out in Section 1.02 (J) "General Rules - Suspension of Rules" and reschedule the regularly scheduled City Council meeting of April 28, 2014 to April 29, 2014.

**Recommendation**

Suspend the Procedural Rules of Council and reschedule the April 28, 2014 Regular City Council meeting to April 29, 2014.

**Description/History**

The MISD Education Foundation Fifteenth Academic Recognition Banquet is being held on April 28, 2014.

The following sections of the Procedural Rules of Council are being provided for informational purposes:

Section 1.02 General Rules

J. Suspension of Rules: Any provision of these of these rules not goverened by the City Charter or State Law may be temporarily suspended by a majority vote (four) of all members of the Council. The vote on any such suspension shall be taken and entered upon the records. If there is an objection to suspending the rules, a vote is required to proceed.

Section 1.03 Meetings

A. Regular Meetings: The Council shall meet regularly on the second and fourth Monday of each month. The regular meetings of the Council shall be held in the Council Chambers of the City Hall unless otherwise established by Council.

**Justification**

Give City Council the opportunity to attend the MISD Education Foundation Fifteenth Academic Recognition Banquet.

**Funding Source**

N/A

**Prepared By**

Vicki Collins, TRMC, City Secretary, City Secretary's Office  
817-276-4204



- G. City Attorney: The City Attorney shall attend all meetings of the Council unless excused, by the City Manager and shall advise the Council on questions of law and procedures. The City Manager is required to ensure an attorney is present at all Council meetings.
- H. City Secretary: The City Secretary (or in City Secretary's absence the Assistant City Secretary) shall attend all meetings of the Council unless excused, by the City Manager who will ensure a person is appointed to take minutes and administer the role of the City Secretary) and shall keep the official minutes.
- I. Rules of Order: Unless in conflict with these rules, the latest version, Robert's Rules of Order Revised shall govern the proceedings of the Council in all cases.
- J. Suspension of Rules: Any provision of these rules not governed by the City Charter or State law may be temporarily suspended by a majority vote (four) of all members of the Council. The vote on any such suspension shall be taken and entered upon the records. If there is an objection to suspending the rules, a vote is required to proceed.
- K. Amendments to Rules: These rules may be permanently amended, or new rules may be adopted by a majority vote (four) of all members of the Council. Any such amendments shall be adopted and recorded by resolution.

### **Section 1.03 Meetings**

- A. Regular Meetings: The Council shall meet regularly on the second and fourth Monday of each month. The regular meetings of the Council shall be held in the Council Chambers of the City Hall unless otherwise established by Council. *(Amended 06-09-08)*
- B. Special Meetings: Special meetings may be held on the call of the Mayor or four (4) Council Members with no less than seventy-two (72) hours notice to each Council Member. Emergency meetings may be called by the Mayor or Mayor Pro Tem in the Mayor's absence, or four (4) members, after notice has been posted two (2) hours. All meetings shall be open to the public and public notice shall be given in compliance with Chapter 551, Texas Government Code.
- C. Recessed Meetings: Any meeting of the Council may be recessed to a later time, provided that no recess shall be for a longer period than until the next regular scheduled meeting.
- D. Work Sessions: Work sessions may be held on the call of the Mayor or four (4) Council Members with no less than seventy-two (72) hours notice to each Council Member. The purpose is to research, analyze, and review any matter which requires special information and study. Such meetings shall be open to the public and notice thereof shall be given in compliance with Chapter 551, Texas Government Code.
- E. Executive Sessions: Participants to open and close executive sessions are limited strictly to Council Members, the City Manager, Assistant City Managers, Director of Business Services, and the City Attorneys. No other staff members, attorneys, board/committee members or individuals are allowed. At the request of Council, City Manager or City Attorney, individual(s) may be requested to attend to address or receive instruction for a specific executive session agenda item. That individual(s) is dismissed from executive session prior to addressing the next agenda item.



# CITY OF MANSFIELD

1200 East. Broad St.  
Mansfield, TX 76063  
www.mansfield-tx.gov

## STAFF REPORT

File Number: 14-0866

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**Agenda Date:** 3/24/2014

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Consideration Item

**Agenda Number:**

**Title**

Board Appointment; Mansfield Economic Development Corporation (MEDC)

**Requested Action**

Appoint MEDC Board Member

**Description/History**

Replace board member Jerry Heftler who resigned from the board mid-term. The following residents have submitted applications:

Louis Stefanos  
Randy Hamilton  
Mike Leyman  
Mark Hayes

**Prepared By**

Laurie Fleiner, Economic Development Specialist  
817-453-1006