



**DATE:** March 21, 2017

**CATEGORY:** Public Hearing

**DEPT.:** Fire

**TITLE:** **Introduce an Ordinance Amending Chapter 14, Article I, and Chapter 15, Article II Relating to On-Demand Mobile Fueling**

### **RECOMMENDATION**

1. Introduce an Ordinance Amending Chapter 14, Article I, and Chapter 15, Article II, of the Mountain View City Code, Relating to On-Demand Mobile Fueling, to be read in title only, further reading waived, and set a second reading for March 28, 2017 (Attachment 1 to the Council report).
2. Adopt a Resolution Amending the City of Mountain View Master Fee Schedule to Include On-Demand Mobile Fueling and Related Permits, Plan Review and Inspection Fees, to be read in title only, further reading waived (Attachment 2 to the Council report).

### **BACKGROUND**

The International Fire Code (IFC) is a national model code published triennially by the International Code Council. The State of California adopts provisions of the IFC and amends some of these provisions to create the California Fire Code (CFC). Every three years, the City adopts the IFC as amended by the State of California and makes further local amendments. On November 22, 2016, the Council adopted the 2015 IFC/2016 CFC with local amendments. The local fire prevention code is set forth in Chapter 14 of the Mountain View City Code (MVCC).

On-demand mobile fueling of motor vehicles is an emerging service industry that allows users to have gasoline delivered to their parked vehicles through a request for service using a phone or mobile device app, and is in demand by individual consumers and businesses alike. There is a particularly high interest in on-demand mobile fueling in Silicon Valley and the San Francisco Bay Area, as the customer base in these areas tend to seek out and use services that offer personal convenience.

Although model fire codes and standards have a history of allowing mobile fueling of vehicles and equipment using diesel or other combustible liquids that are difficult to ignite, the concept of widespread on-demand delivery of gasoline is new. The Fire Marshals within Santa Clara County are in agreement that motor vehicle fueling using flammable liquids is currently only authorized by the IFC at fixed gas stations, and for private use on farms and construction sites.

In response to the recent interest in on-demand mobile fueling, in 2016, the Office of the California State Fire Marshal convened a Mobile Fueling Task Force comprised of representatives from State agencies, fire code officials, industry stakeholders, and interested parties to develop and evaluate regulations for on-demand mobile fueling. The Mobile Fueling Task Force ultimately drafted model code regulations for on-demand mobile fueling operations. The draft regulations provide technical and administrative safety controls for on-demand mobile fueling into motor vehicles. These regulations were presented during the International Code Hearings in 2016 and were approved for inclusion in the 2018 IFC. Under the City's typical code adoption and local amendment process, the regulations would go into effect in Mountain View when the 2018 IFC/2019 CFC is adopted locally in 2020.

## ANALYSIS

A lack of prescriptive fire code requirements, coupled with a desire to capture a share of the emerging on-demand mobile fueling market, has created largely a self-regulated industry. Currently, staff is aware of eight (8) active on-demand mobile fueling businesses in and around the greater San Francisco Bay Area. Several of these mobile fuel businesses have taken the position that since the IFC is silent on mobile fueling in urban areas, they are not subject to regulatory oversight and elect to operate "under the radar" with a "don't ask permission" approach. Staff is aware of only the cities of Milpitas and Santa Clara having issued a permit to a single on-demand mobile fueler to deliver fuel to motor vehicles parked at corporate campuses within their cities.

Compared to fixed location gas stations, which are subject to the International Fire and Building Codes' prescriptive construction requirements, on-demand mobile fueling of gasoline presents greater public safety and environmental concerns, as it involves dispensing of a highly flammable liquid (gasoline) from a mobile fuel vehicle to another vehicle in a multitude of outdoor settings and surroundings. Flammable liquids are highly volatile and present a significant fire and explosion hazard when vapors are released and come in contact with ignition sources. Additionally, gasoline spills into on-site storm drains and/or stormwater treatment areas could cause environmental hazards and violate the City's stormwater permit.

## Proposed Regulations

In response to the increasing interest in on-demand mobile fuel services, several cities in Santa Clara County have locally amended their ordinances to adopt the recently approved model code regulations that would not be included until the 2018 IFC. In addition, the Santa Clara County Fire Marshals Association collectively agreed to include several additional requirements for on-demand mobile fueling.

The model code regulations include technical provisions developed specifically to ensure the public and environment are safeguarded against fires, explosions, and spills related to on-demand mobile fueling and require:

- Switches that limit the amount of fuel dispensed;
- Emergency shut off valves;
- Dispensing hose length limitations; and
- Listed and approved nozzles.

Further, the model code regulations include administrative controls related to oversight and environmental safety and include:

- Property line, building, and ignition source control setbacks;
- Permitting and approval;
- Development of a mobile fueling site plan;
- Operator training records;
- Safety and emergency response plan;
- Prohibition of mobile fueling on public streets, inside buildings, and on roofs of parking garages; and
- Maximum fuel quantities carried by mobile fuel vehicles.

Additional Countywide requirements for on-demand mobile fueling include:

- Breakaway nozzles;
- Illumination for nighttime deliveries;
- Use of vehicle flashers when fueling;
- Use of safety cones;
- Bonding of vehicles; and
- Approval of operator training.

The City could wait until the regular adoption of the 2018 IFC, which would include the recently approved mobile fueling regulations and occur in 2019. However, similar to other cities in the County, staff is proposing the City adopt regulations earlier due to increasing interest for on-demand mobile fueling and in an effort to provide a coordinated Countywide approach to regulating this industry. The ordinance proposed includes the model code regulations and local Countywide amendments. On-demand mobile fueling would be overseen by the Fire Department as it is an outdoor operation not subject to Building Inspection Division or Planning Division review. Staff proposes to regulate on-demand mobile fueling through site plan review, inspection, and issuance of fire code operational and site permits.

### Permitting Process

Although the regulations set forth in the proposed ordinance provide technical provisions and administrative controls, they do not establish a specific permitting process. Such administrative procedures would need to be developed. The Santa Clara County Fire Marshals are currently working collectively to develop a standardized permitting process for on-demand mobile fuel operators and mobile fuel sites within the County. Staff anticipates the standardized process will be available for the City's use within 30 days after adoption of the ordinance amending Chapter 14.

In addition to the proposed amendments to Chapter 14, Article I, staff proposes amending the definition of mobile vendor set forth in Chapter 15, Article II, of the MVCC, Mobile Vending, to expressly exclude on-demand mobile fueling operators from Chapter 15 Mobile Vending provisions, and make clear on-demand mobile fueling is subject to Chapter 14 of the City Code.

## Fees

If Council adopts the on-demand mobile fueling ordinance, staff recommends charging on-demand mobile fueling operators an operator permit fee and the property owner of the site a site permit fee to fully recover staff time spent issuing and enforcing these permits. The proposed fee of \$170 is similar to the fee currently assessed by the Fire Department for other operational permits. As the City begins to receive and process operator and site applications for on-demand mobile fueling, time spent processing these applications will be tracked and staff can return to Council at a future date if new or amended fee recommendations are necessary.

## **FISCAL IMPACT**

The permitting and enforcement of on-demand mobile fueling is a new responsibility for the Fire Department, resulting in additional workload for existing staff. Staff is proposing new fees to fully recover staff time for this new workload. Proposed amendments to the City of Mountain View Master Fee Schedule include fees for on-demand mobile fueling operator and site permits.

Mobile fueling sales would be subject to sales tax and it is likely the City would receive a portion of the sales tax. Staff has submitted a question to the Board of Equalization (BOE) for confirmation of sales tax allocation but does not expect to hear back from the BOE for several months. There could be a decrease in sales tax revenue from other fueling stations as this industry grows.

## **ALTERNATIVES**

1. Do not amend Mountain View City Code, Chapter 14, Article I and Chapter 15, Article II to allow mobile fueling, and wait until the 2018 IFC is adopted locally.
2. Modify the proposed amendments as specified by City Council.
3. Provide other direction.

**PUBLIC NOTICING**

Agenda posting and copy of report to those who have expressed interest in the topic.

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Attachments: 1. Draft Ordinance, Chapter 14, Article I and Chapter 15, Article II  
2. Resolution and Fee Schedule