

ORDINANCE NO. 1123

**ORDINANCE OF THE CITY OF UKIAH ADDING
ARTICLE 6, COMMENCING WITH SECTION 5070 TO
CHAPTER 1, DIVISION 6 OF THE UKIAH CITY CODE,
REGULATING SELF-FUELING OF AIRPLANES AT THE
UKIAH MUNICIPAL AIRPORT**

SECTION ONE:

The City Council of the City of Ukiah hereby ordains that Article 6 is added to Chapter 1, Division 6 of the Ukiah City Code to read as follows:

ARTICLE 6

§5070: PURPOSE:

The purpose of this Article 6 is to establish a policy for self-fueling by owners or operators of aircraft at the Ukiah Regional Airport that allows owners or operators of aircraft to refuel their aircraft without assistance, while, at the same time, providing restrictions and regulations that are reasonably necessary for safety, preservation of facilities, and the protection of the public interest.

§5071: DEFINITIONS:

In this ordinance, the following words have the following meanings:

1. "Aircraft fuel servicing vehicle" means a vehicle having a cargo tank designed for or used in the transportation and transfer of fuel into or from an aircraft.
2. "City" means the City of Ukiah.
3. "FAA" means the Federal Aviation Administration.
4. "Airport Manager" means the Manager of the Ukiah Regional Airport and includes, unless otherwise noted, the Manager's designee.
5. "NFPA" means the National Fire Protection Association. All references to an NFPA standard mean the most recent edition of that standard, as may be amended from time to time.
6. "Person" means an individual, corporation, partnership, limited liability company, or other private or governmental entity, agency or organization.
7. "Permittee" means a person who holds a self-fueling permit issued by the Airport Manager.

§5072: FUELING RESTRICTIONS; PERMIT PROCESS

(a) No person other than the City shall transfer fuel into an aircraft unless the person has first obtained a self-fueling permit from the Airport Manager and the person complies with this ordinance. A self-fueling permit authorizes the permittee to transfer fuel only into an aircraft owned by or leased exclusively to the permittee. No person shall transfer fuel into an aircraft not owned by or leased exclusively to that person, nor shall any person sell fuel to any other airport user. The City will not recognize an organization

formed by several aircraft owners for the purpose of self-fueling as a single aircraft owner or exclusive lessee for purposes of this Article 6.

(b) An application for a self-fueling permit shall be made by supplying to the Airport Manager information as specified in subsections (i)-(viii) below. The Airport Manager shall review the information to determine whether the applicant satisfies the requirements of this Article 6. If the information is complete and satisfies the requirements for the issuance a permit, the Airport Manager shall issue a self-fueling permit to the applicant. Any person whose application for a self-fueling permit is denied may appeal this denial to the City Manager in accordance with rules adopted by the City Manager. The rules shall provide an opportunity to appear before the City Manager and to present evidence and argument and shall require the City Manager to base his or her decision on the information received from the Airport Manager and from the appellant. The information to be included in the application for a permit shall include, but not be limited to:

- (i) a description of the aircraft to be fueled;
- (ii) the aircraft fuel servicing vehicles that will be used;
- (iii) the employees who will operate the aircraft fuel servicing vehicles and who will conduct the fueling operations;
- (iv) an emergency response plan;
- (v) a fuel-handling personnel training program;
- (vi) an aircraft fuel servicing vehicle inspection and maintenance program;
- (vii) fuel transfer procedures; and
- (viii) other additional information as deemed necessary by the Airport Manager

(c) When issued, a self-fueling permit shall be signed by the permittee or a person empowered by law to sign for and bind the permittee to comply with the permit and this ordinance and shall set forth, among other things, the permittee's agreement to meet appropriate insurance, indemnity and hold harmless requirements, requirements for aircraft fuel servicing vehicle maintenance and inspection, and responsibility for damage to the Airport. The permit shall also include the permittee's consent to reasonable amendments or additions to permit requirements as circumstances may warrant. Insurance and indemnification requirements shall include the following:

- (i) Liability insurance: A permit shall not issue and become effective until the applicant as provided proof to the Airport Manager's reasonable satisfaction that the applicant has in effect comprehensive general or commercial liability insurance, naming the City as an additional insured, with policy limits of not less than \$2,000,000 per occurrence. The policy shall be endorsed to prohibit cancellation or non-renewal without providing the City with 30-days prior written notice thereof. The insurance shall include coverage for the discharge or spilling of fuel and the costs to defend citizen suits or claims for damages arising out of such discharge or spills. The insurance must be issued on an occurrence basis. The insurer must be an insurance company admitted by the Insurance Commissioner to issue insurance in the State of California with an A.M. Best rating of A for financial strength, AA for long term credit rating and AMB 1 for short term credit rating.

(ii) Indemnification: The permit shall not issue until the permittee has signed and become legally obligated to comply with an agreement to indemnify the City against any claim for damages or any other cost to the City arising out of any act or omission by the permittee or its officers, employees, agents, or contractors while performing under the permit. The indemnification agreement shall be in a form approved by the Airport Manager and the City Attorney.

(d) Fees:

(1) Applicant Fee: The City Council may establish by resolution a nonrefundable application and permit renewal fee which must be paid by the applicant, when the application is submitted to the Airport Manager.

(2) Fuel Vehicle permit fee: The City Council may establish by resolution a fee for each fuel servicing vehicle included under the permit which must be paid each year at a time specified by the Airport Manager.

(e) In conducting self-fueling operations, a permittee shall not vary materially from the application information, unless a written request for a variation is submitted to and approved in advance by the Airport Manager. A material variation includes, but is not limited to, a different aircraft, aircraft fuel servicing vehicle, vehicle operator or person performing fueling operations than what is stated in the application information. The Airport Manager may allow temporary variations from the application information while a request for a variation is pending, on a case-by-case basis.

(f) A self-fueling permit is not assignable or transferrable and is issued for a term of one year. Prior to expiration of the permit term, a permittee may apply to renew the permit. An application to renew a permit need only include application information that differs from the information submitted in the original permit application.

(g) The City may take up to 7 days to process permits, once the application has been determined by the Airport Manager to be complete. No self-fueling will be allowed until the permit is issued to the permittee.

§5073: AIRCRAFT FUEL SERVICING VEHICLES

(a) The permittee shall have a single-product aircraft fuel servicing vehicle for each type of fuel. Each vehicle shall meet all of the following requirements:

1. Have a tanker capacity of over 100 gallons;
2. Have its own bottom tank loading and grounding services and approved hoses and dispensing nozzles;
3. When not in use, be parked (i) in a location sited in accordance with NFPA 407 standards;
4. Have marking and color coding in accordance with FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling, and Dispensing On Airports, and appropriate lighting and radio communication equipment; and
5. Be owned by or leased exclusively to the permittee.

(b) No later than 72 hours before an aircraft fuel servicing vehicle(s) is placed in service for self-fueling, the permittee shall notify the Airport Manager of the vehicle(s) intended use.

(c) The permittee shall operate the aircraft fuel servicing vehicle(s) in a safe, efficient and clean manner, and shall not allow the use of a vehicle that is not fully operational in compliance with all applicable regulations. The permittee shall perform such repair and maintenance upon the vehicle as is necessary to ensure its safe operation and as required by the self-fueling permit.

(d) The operator of any aircraft fuel servicing vehicle that is on the Airport premises for any purpose related to self-fueling shall meet all of the following requirements:

1. Possess a valid operator's license;
2. Be an employee of the permittee; and
3. Comply with all NFPA and FAA requirements regarding operators of aircraft fuel servicing vehicles.

§5074: FUELING OPERATIONS:

(a) Any vehicle that is on the Airport premises for any purpose related to self-fueling shall use only such roadways or aircraft movement areas as are designated by the Airport Manager.

(b) Fueling operations during which fuel is transferred between an aircraft fuel servicing vehicle and an aircraft shall occur only in areas designated for that purpose by the Airport Manager.

(c) No individual may perform a fueling operation unless the individual meets all of the following requirements and does all of the following things:

1. Remains with the fueling apparatus at all times during the fueling operation;
2. Exercises extreme caution to prevent a fuel spill, and if a fuel spill occurs, immediately ceases fueling operations and notifies the Airport Manager;
3. Is an employee of the permittee, but this requirement does not apply to an individual delivering fuel into a fuel truck;
4. For any fueling operation that results in the transfer of fuel into an aircraft, must be able to demonstrate upon demand that he or she is authorized, trained and fully qualified to operate the fuel transfer equipment by (i) having completed, or been trained by an individual who has completed, an accepted FAA training program, and (ii) carrying with him or her an identification card issued by the employer which certifies his or her qualifications; and
5. Complies with all NFPA and FAA requirements regarding fuel transfers for aircraft fuel servicing.

(d) The permittee shall keep training records for the employees who perform fueling operations for a minimum of two years, and shall make the training records available to the Airport Manager upon request.

(e) Any vehicle that transfers fuel into a fuel truck shall leave the Airport upon completion of the fueling operation.

§5075: PARKING: OFF-SITE METHOD:

When an aircraft fuel servicing vehicle not being used in a self-fueling operation, is present on airport premises, it shall be parked in an area designated for such purpose by the Airport Manager. A reasonable fee for such parking may be proposed by the Airport Manager and approved by resolution of the City Council.

§5076: FUEL FLOWAGE FEE:

The permittee shall pay a fuel flowage fee as established from time to time by City Council resolution.

§5077: BULK FUEL TANK FEE:

Purchasing fuel from the City owned bulk storage tank requires a self fueling permit. Fuel vehicles must have all proper fittings and meet all safety requirements to transfer fuel from the bulk storage tank to fuel vehicles. Pricing for bulk fuel storage will be set by City Council resolution. The availability and amount of fuel sold from the bulk storage tank shall be determined by the Airport Manager.

§5078: NATIONAL FIRE PROTECTION ASSOCIATION:

The City adopts and makes a part of this Article 6, as though fully set forth, all of the current provisions of NFPA 30, 407 and 415, as those rules may be amended from time to time. If there is any conflict between any provision of this Article 6 and any provision of NFPA 30, 407 or 415, the provision that is more stringent shall apply. Any violation of NFPA 30, 407 or 415 is a violation of this Article. Notwithstanding any provision of the applicable NFPA rules or the Ukiah City Code, permittees may not install or use underground fuel storage tanks.

§5079: COMPLIANCE WITH OTHER LAWS:

A permittee shall comply with all local, federal and state laws, codes, ordinances, rules and regulations now or hereafter in force and effect applicable to any activity associated with the storage and transfer of aircraft fuel. A violation of any law, code, ordinance, rule, regulation, circular or order referred to in this section is a violation of this Article 6.

§5080: INSPECTIONS, RECORDS AND AUDITS:

(a) The permittee shall make daily, weekly and monthly inspections of any fuel tank system it has and the aircraft fuel servicing vehicles it uses as required by FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling and Dispensing on Airports, and shall maintain a written record of such inspections. The permittee shall also keep and maintain written records of all fuel brought to the Airport for self-fueling purposes (including dates, supplier and quantity) and of all fuel quantities transferred into aircraft

by aircraft identification number. The permittee shall also maintain accurate records of fuel product monitoring to ensure that there is no leakage from any fuel storage tanks it has and from its aircraft fuel servicing vehicles. Copies of monthly leak detection reports generated by an a fuel tank monitoring system, which reports must clearly identify the tank owner, the hangar location and the tank contents, shall be provided to the Airport Manager every three months. The records required by this paragraph shall be kept for a minimum of two years and shall be made available to the Airport Manager upon request.

(b) In addition to the records required by paragraph (a), the permittee shall (i) provide the Airport Manager with information and records which are requested for the purpose of determining compliance with this ordinance including, but not limited to, records pertaining to business organization and ownership, ownership of equipment, and employee status, and (ii) promptly forward to the Airport Manager copies of any fire or safety inspection reports, underwriting audits or insurance company reviews that relate to its self-fueling operations at the Airport, including aircraft fuel servicing vehicles. The permittee shall also allow the Airport Manager to inspect the permittees aircraft fuel servicing vehicles for the purpose of determining compliance with this ordinance.

(c) The City shall have the right, during reasonable hours and upon reasonable advance notice, to audit permittees records regarding its self-fueling operations at the Airport.

§5081: ADDITIONAL REQUIREMENTS:

(a) The permittee shall provide for the adequate handling and disposal, away from the Airport, of all trash, garbage and other refuse generated as a result of its self-fueling operations.

(b) The permittee shall handle, use, store and dispose of fuel and all other materials, including hazardous materials, owned or used by it at the Airport in accordance with all applicable federal, state and local laws, codes, rules, regulations and ordinances, including rules of the Airport Manager.

§5082: EXEMPTIONS:

Upon written approval by the Airport Manager, the following do not require a self fueling permit:

- (a) Defuel/refuel as required to perform maintenance; and
- (b) Fuel Vehicles with less than 100 gallons of fuel capacity which fuel 100 gallons or less within any 24 hour period.

§5083: ENFORCEMENT:

(a) The failure to comply with any requirement of this Article 6 constitutes a violation thereof. Any potential violation of this ordinance may be investigated by the Airport Manager. If, upon investigation, the Airport Manager determines that a violation has occurred, he or she may do any or all of the following:

1. If the violation jeopardizes the safety of persons or property, order the permittee to cease self-fueling operations until the violation is corrected and take reasonable steps to ensure compliance with the order; or
2. Issue a written or verbal warning;

(b) If the Airport Manager determines that a violation of this Article 6 has occurred, he or she may take one or more of the following actions:

1. Recommend legal action;
2. Order the permittee to take certain action consistent with this Article 6 and the permit; or
3. Revoke the self-fueling permit for a time certain. If the Airport Manager determines that a violation occurred and either orders the permittee to take certain action or revokes the self-fueling permit, the permittee may appeal this determination pursuant to the City Manager as provided in Section 5077(b). Any permit revocation shall be stayed during the pendency of this appeal.

(c) Any person who violates any provision of this Article 6 or any final order issued pursuant to this Section 5083:

1. Shall be guilty of an infraction and subject to a fine of not more than \$100 for a first offense, \$200 for a second offense and \$500 for a third or subsequent offense. Each day the violation continues shall be deemed a separate offense.

2. Shall be subject to a civil penalty which may be recovered in a civil action filed on the City's behalf by the City Attorney in the amount of \$1,000 for each day the violation occurs or continues.

(d) The City may seek any other remedy available at law or in equity for a violation of this Article 6. The City may pursue any or all such remedies and any or all of the specific remedies provided in this Article 6, none of which shall be deemed exclusive. All such violations are declared a public nuisance.

SECTION TWO

1. **COMPLIANCE WITH CEQA.** The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment.)

2. **SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have adopted this Ordinance and any section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

3. EFFECTIVE DATE. This Ordinance shall be published as required by law in a newspaper of general circulation in the City of Ukiah, and shall become effective thirty (30) days after its adoption.

Introduced by title only on March 3, 2010, by the following roll call vote:

AYES: Councilmembers Landis, Crane, Rodin, Baldwin, and Mayor Thomas
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on March 17, 2010, by the following roll call vote:

AYES: Councilmembers Landis, Crane, Rodin, Baldwin, and Mayor Thomas
NOES: None
ABSENT: None
ABSTAIN: None



Benj Thomas, Mayor

ATTEST:



JoAnne Currie, City Clerk