

## Chapter 16.43

### AIRPORT NOISE COMPATIBILITY<sup>4</sup>

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**16.43.010 Definitions.**

A. "Air Carrier" means a scheduled carrier, certificated under FAR Parts 121, 125, or 135, operating aircraft having a certificated maximum takeoff weight of seventy-five thousand pounds or more, transporting passengers or cargo.

B. "California Noise Standards" means the Noise Standards for California Airports, as set forth in 21 California Code of Regulations, Section 5000, et seq. Unless otherwise stated, the terms used in this Chapter shall have the same meanings as set forth in the Noise Standards.

C. "Charter operation" means a revenue producing takeoff or landing, operated by a person or entity that is neither an Air Carrier nor a Commuter Carrier, using an aircraft having a certificated maximum takeoff weight of seventy-five thousand pounds or more and transporting passengers or cargo.

D. "Commuter" and "commuter carrier" means a scheduled carrier, certificated under FAR Part 121 or 135, operating aircraft having a certificated maximum takeoff weight less than seventy-five thousand pounds and transporting passengers or cargo.

E. "Engine runup" means the operation of an aircraft engine while stationary for the purpose of testing (other than preflight), servicing or repairing such engine.



F. "Flight" means one arrival and one departure by an aircraft.

G. "General aviation" means aviation activity other than operations by Air Carriers, Commuter Carriers, Industrial operators, Charter operators, and public aircraft.

H. "Incompatible property" means property used for residential purposes, schools and churches. Property subject to an easement for noise and property acoustically treated to reduce interior CNEL levels is not rendered compatible as a result of such easement or acoustic treatment.

I. "Industrial operation" means one takeoff or one landing of an aircraft over seventy-five thousand pounds maximum certificated gross takeoff weight for purposes of production, testing, remanufacturing, or delivery by or under the control of a manufacturer based at the Long Beach Airport. This definition does not include flights into or out of Long Beach for purposes of maintenance, retrofit or repair.

J. "Operation" means a takeoff or a landing of an aircraft at the Long Beach Airport.

K. "Owner/operator" means the owner of record of an aircraft operating at the Airport and the authorized user of that aircraft if different from the owner.

L. "Practice Low Approach" and "Practice Missed Approach" means an action by an aircraft consisting of an approach to or over the Airport for a landing where the pilot intentionally does not make contact with the runway.

M. "Public Aircraft" means an aircraft defined in 49 USC 40102 (37).

N. "Stop and Go" means an action by an aircraft consisting of a landing followed by a complete stop on the runway and a takeoff from that point.

O. "Touch and Go" means an action by an aircraft consisting of a landing and departure on a runway without stopping or exiting the runway.

P. "Training operation" means Touch and Go, Stop and Go, Practice Low Approach, and Practice Missed Approach Operation, or any of them. (Ord. C-7320 § 2, 1995).

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#### **16.43.020 Scope of permission to use the Airport.**

Any authorization to conduct operations at the Airport which is granted or continued under this Chapter is not transferable, directly or indirectly. Entities which are jointly owned or which own a controlling interest in another entity shall not be considered separate from the commonly owned or controlled entity. Although the authorizations to conduct operations at the Airport which are granted or continued under this Chapter may be considered to be interests requiring notice and an opportunity for hearing before revocation, such authorizations nevertheless remain public rights to which no user may obtain continuing ownership. Control of any permits issued pursuant to this Chapter may last only so long as the owner/operator complies with the conditions of use, ordinances, rules, and regulations of the City, including compliance with the terms of operating permits and the payment of all fees and charges established from time to time by the City. (Ord. C-7320, § 2, 1995).

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#### **16.43.030 Prohibited activities.**

A. Training Operations. No Touch and Go, Stop and Go, Practice Low Approach, or VFR Practice Missed Approach shall be conducted at the Airport except between seven a.m. and



seven p.m. on weekdays and between eight a.m. and three p.m. on Saturdays, Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that if any such holiday falls on Saturday or Sunday and, as a result, a holiday is observed on the preceding Friday or succeeding Monday, then such Friday or Monday, as the case may be, shall be considered to be a holiday for purposes of this Section. Except for instrument training, Training Operations shall be conducted only on Runways 25R/7L and 25L/7R, unless the FAA directs such Operations on Runways 34L/16R and 34R/16L.

B. Engine Runups. Engine runups shall be permitted only between the hours of seven a.m. and nine p.m. on weekdays and nine a.m. and nine p.m. on weekends and holidays. Such runups may be conducted only at locations designated for such purposes by the Airport Manager. Nothing in this Section shall be deemed to require relocation of existing runup facilities for which appropriate noise buffering devices have been constructed.

C. Formation Takeoffs and Landings. Except as necessary in the manufacture or repair of aircraft, formation takeoffs and landings are prohibited at Long Beach Municipal Airport.

D. Unapproved Charter Flights. No proposed charter operation shall be conducted unless the written permission of the Airport Manager has been sought and received before such operation is scheduled to occur. (Ord. C-7320 § 2, 1995).

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#### 16.43.040 Maximum SENEL limits.

A. Subject to the authority of the Airport Manager to adjust permissible single event noise limits for categories of Airport users in order to reduce such group's cumulative noise levels, all non-governmental Operations at the Airport shall meet the following SENEL limits:

Runway	(Dep/Arr)	(Dep/Arr)	(Dep/Arr)	(Dep/Arr)
30	102.5/101.5	90/90	79/79	9/10
12	102.5/101.5	90/90	79/79	10/9
25R	92/88	*/	*/	6/15/2
25L	95/93	*/	*/	
7R	95/92	*/	*/	2/5
7L	88/92	*/	*/	1/6



\* Except in case of emergency or air traffic direction, all aircraft Operations between the hours of 10:00 p.m. and 7:00 a.m. are limited to runways 30 and 12.

B. Violations occurring during the period between ten p.m. and eleven p.m. which are the result of unanticipated delays beyond their reasonable control of the aircraft Owner/Operator shall be waived upon the presentation of evidence satisfactory to the Airport Manager that the delayed arrival or departure resulted from such circumstances. Delays caused by mechanical failure (but not by routine maintenance), by weather conditions or by air traffic control conditions will be considered beyond the Owner/Operator's control.

C. The SENEL limits for the period from six a.m. to seven a.m. and from ten p.m. to eleven p.m. shall be subject to revision at the end of the fourth calendar quarter following the implementation of this Chapter. If, for the period covered by the four calendar quarters following implementation of this Chapter, cumulative aircraft noise has exceeded the level allowed by Section 16.43.050.A, these limits shall be reduced to eighty-five SENEL. The SENEL for the period from six a.m. to seven a.m. and from ten p.m. to eleven p.m. shall, however, revert to ninety SENEL if, for any subsequent four quarters, cumulative aircraft noise has not exceeded the level allowed by Section 16.43.050.A. (Ord. C-7320 § 2, 1995).

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#### **16.43.050 Cumulative noise limits and noise budgets.**

A. It is the goal of the City that Incompatible Property in the vicinity of the Airport shall not be exposed to noise above sixty-five CNEL. In determining compliance with this noise goal and with the noise budgets established by this Chapter, a tolerance of one dB CNEL will be applied. In assessing cumulative noise levels for any period less than one year, the Airport Manager shall take into consideration and allow for reasonably anticipated seasonal variations in Operations and noise. The noise of military and Public Aircraft, for which the City bears no liability, will be excluded in calculating CNEL and in assessing compliance with the CNEL goal and CNEL budgets set forth in this Chapter.

B. For purposes of this Section, users of the Airport shall be categorized as follows: Air Carriers, Commuter Carriers, Industrial operators, Charter operators, and General Aviation (which includes all other users). Each user group at the Airport will be assigned a noise budget for takeoff and landing noise on Runway 30/12.

C. Initial noise budgets hereunder for Air Carriers, Commuter Carriers, Charter operators, and General Aviation shall be established determining the actual monitored noise level of each user group for the twelve months ended October 31, 1990. In the case of Industrial operators, the baseline November 1, 1989, to October 31, 1990, noise budget shall be established by determining the actual monitored noise level of that user group for the twelve months ended October 31, 1990, as augmented to accommodate reasonably projected Operations for manufacturing and flight test purposes by aircraft types which were under design during the base year but had not yet entered service. These noise budgets are selected to comply with the provisions of the Airport Noise and Capacity Act of 1990. Noise budgets shall be established by the Airport Manager and shall be published in a Technical Appendix to this Chapter. Administrative review of the decisions of the Airport Manager under this Chapter shall be conducted pursuant to the provisions of Section 16.43.110.

D. Following the conclusion of the first calendar quarter after the implementation of this Chapter, and following the conclusion of each calendar quarter thereafter, the Airport Manager shall issue a report assessing compliance with the noise goal set forth in Subsection A above and with the noise budgets established pursuant to Subsection C above. (Ord. C-7320 § 2, 1995).

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## 16.43.060 Compliance with noise budgets.

### A. General Aviation Operations.

1. If, for the six month period covered by the two calendar quarters following implementation of this Chapter (or for any six month period thereafter), (a) General Aviation's cumulative noise (for such six month period) exceeds the level established pursuant to Section 16.43.050.C and (b) overall aircraft noise for such six month period exceeds the level allowed by Section 16.43.050.A, the GA Noise Committee will be permitted to institute voluntary procedures to reduce General Aviation's cumulative noise. If, for the two calendar quarters following a determination by the Airport Manager that General Aviation noise and total aircraft noise have exceeded the levels permitted by Section 16.43.050, the GA Noise Committee has been unsuccessful in reducing General Aviation noise to the level established pursuant to Section 16.43.050.C (and overall airport noise for the prior twelve month period exceeds the level permitted by Section 16.43.050.A), the Airport Manager shall, after consultation with the GA Noise Committee, institute such reductions in the maximum SENELs applicable to General Aviation Operations as the Airport Manager determines (recognizing the mandatory reductions in the SENEL limit for operations from six a.m. to seven a.m. and from ten p.m. to eleven p.m. to be enforced pursuant to Section 16.43.040) are necessary for General Aviation to achieve its CNEL budget. On an annual basis for as long as overall airport noise exceeds the level allowed by Section 16.43.050.A and General Aviation noise exceeds the level established pursuant Section 16.43.050.C, the Airport Manager shall raise or lower the SENEL limits applicable to General Aviation as necessary to achieve the General Aviation CNEL budget; provided, however, that such reductions in the SENEL limits shall not be applicable to flights for maintenance, retrofit or repair performed by a manufacturer with manufacturing facilities at the Airport.

2. The Airport Manager shall give at least thirty days' notice of any SENEL reduction required by Subsection A.1. Any Owner/Operator who contests any decision of the Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110.

### B. Industrial Operations.

1. Pending assessment of compliance with the CNEL budget applicable to Industrial Operations, the number of annual Flights by that user group shall not be increased above the number for the twelve months ended October 31, 1990, as adjusted to accommodate Flights for manufacturing and test purposes by aircraft types which were under design during the period from November 1, 1989, to October 31, 1990, but had not yet entered service.

2. In order to achieve applicable noise budgets, users within the Industrial category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Industrial Flights if the Industrial user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.

3. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional flights may be allocated to Industrial operators based on the cumulative noise generated by Industrial users during the prior twelve month period. Additional flights above those permitted under Subsection B.1 shall be awarded only to the extent the Airport Manager determines that initiation of such Flights will not lead the Industrial users, as a group, to exceed the level allowed by



## Section 16.43.050.C.

4. Flights allocated by the Airport Manager pursuant to Subsection B.3 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection B.3 has resulted in cumulative noise from Industrial Flights in excess of the Industrial noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the flight awards granted under Subsection B.3 as the Airport Manager determines must be revoked in order to achieve compliance with the Industrial noise budget. In making this determination, the first Flights awarded under Subsection B.3 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.

5. No industrial operator will be required to reduce its annual Operations below the number of Operations for the twelve months ended October 31, 1990, as adjusted to accommodate Operations for manufacturing and flight test purposes by aircraft types which were under design during the period from November 1, 1989, to October 31, 1990, but had not yet entered service. The number of annual Industrial Flights below which each Industrial user shall not be reduced shall be set forth in the Technical Appendix to this Chapter.

6. In order to minimize Industrial noise, all Industrial flights shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Operations shall be scheduled between the hours of seven a.m. and ten p.m.

## C. Charter Operations.

1. In order to minimize noise from Charter Operations, all Charter Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Charter Operations shall be scheduled between the hours of seven a.m. and ten p.m.

2. If, for the six month period covered by the two calendar quarters following implementation of this Chapter (or for any six month period thereafter), (a) Charter operators' cumulative noise (for such six month period) exceeds the level established pursuant to Section 16.43.050.C and (b) overall aircraft noise for such six month period exceeds the level allowed by Section 16.43.050.A, the Airport Manager will attempt to gain voluntary compliance by Charter operators with operating restrictions which will result in compliance with the CNEL goal established for this user group. If, for the two calendar quarters following a determination that Charter operators' noise and total aircraft noise have exceeded the levels permitted by Section 16.43.050, the Airport Manager is unsuccessful in reducing Charter operators' noise to the level established pursuant to Section 16.43.050.C (and overall Airport noise for the prior twelve month period exceeds the level permitted by Section 16.43.050.A), the Airport Manager shall, after consultation with Charter operators, institute such reductions in the SENEL limits applicable to Charter Operations as the Airport Manager determines (recognizing the mandatory reductions in the SENEL limit for operations from six a.m. to seven a.m. and from ten p.m. to eleven p.m. to be enforced pursuant to Section 16.43.040) are necessary for Charter operators to achieve their CNEL budget. On an annual basis for as long as overall airport noise exceeds the level allowed by Section 16.43.050.A and Charter operators' noise exceeds the level established pursuant Section 16.43.050.C, the Airport Manager shall raise or lower the SENEL limits applicable to Charter operators as necessary to achieve the Charter operators' CNEL budget.

3. The Airport Manager shall give at least thirty days' notice of any SENEL reduction required by Subsection C.2. Any Owner/Operator who contests any decision of the



Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110.

#### D. Commuter Flights.

1. Commuter Carriers shall be permitted to operate not less than twenty-five flights per day, the number of Flights authorized on November 5, 1990. Pending assessment of compliance with the CNEL budget applicable to Commuter Carriers, Flights by these users shall not be increased above the number permitted as of November 5, 1990.
2. In order to achieve applicable noise budgets, users within the Commuter category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Commuter Flights if the Commuter user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.
3. Flights which are available for use, but which are unallocated at the time this Chapter becomes effective, shall be allocated on a first-come, first-served basis. Allocations of Flights which are sought by more than one user shall be determined by lottery.
4. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional Flights may be allocated to Commuters based on the cumulative noise generated by Commuter Operations during the prior twelve month period. Additional Flights above those permitted under Subsection D.1 shall be awarded only to the extent the Airport Manager determines that initiation of service utilizing those flights will not lead the Commuters, as a group, to exceed the level allowed by Section 16.43.050.C.
5. Flights allocated by the Airport Manager pursuant to Subsection D.4 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection D.4 has resulted in Commuter cumulative noise in excess of the commuter noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the Flight awards granted under Subsection D.4 as the Airport Manager determines must be revoked in order to achieve compliance with the Commuter noise budget. In making this determination, the first Flights awarded under Subsection D.4 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.
6. In order to minimize Commuter noise, all Commuter Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Operations shall be scheduled between the hours of seven a.m. and ten p.m.

#### E. Air Carrier Flights.

1. Air Carriers shall be permitted to operate not less than forty-one flights per day, the number of flights authorized on November 5, 1990. Pending assessment of compliance with the CNEL budget applicable to Air Carriers, Flights by these users shall not be increased above the number permitted as of November 5, 1990.
2. In order to achieve applicable noise budgets, users within the Air Carrier category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Air



Carrier Flights if the Air Carrier user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.

3. Flights which are available for use, but which are unallocated at the time this Chapter becomes effective, shall be allocated on a first-come, first-served basis. Allocations of Flights which are sought by more than one user shall be determined by lottery.

4. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional Flights may be allocated to Air Carriers based on the cumulative noise generated by Air Carrier Operations during the prior twelve month period. Additional Flights above those permitted under Subsection E.1 shall be awarded only to the extent the Airport Manager determines that initiation of service utilizing those Flights will not lead the Air Carriers, as a group, to exceed the level established pursuant to Section 16.43.050.C.

5. Flights allocated by the Airport Manager pursuant to Subsection E.4 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection E.4 has resulted in air carrier cumulative noise in excess of the Air Carrier noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the Flight awards granted under Subsection E.4 as the Airport Manager determines must be revoked in order to achieve compliance with the Air Carrier noise budget. In making this determination, the first Flights awarded under Subsection E.4 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.

6. In order to minimize Air Carrier noise, all Air Carrier Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all operations shall be scheduled between the hours of seven a.m. and ten p.m.

F. Administrative Review. Administrative review of the decisions of the Airport Manager under this Section shall be conducted pursuant to the provisions of Section 16.43.110. (Ord. C-7320 § 2, 1995).

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#### **16.43.070 General exemptions.**

The following categories of aircraft shall be exempt from the provisions of this Chapter:

A. Public Aircraft, including military aircraft;

B. Law enforcement, emergency, and fire or rescue aircraft operated by any governmental entity;

C. Aircraft used for emergency purposes during an emergency which has been officially proclaimed by competent authority pursuant to the laws of the United States, the State or the City;

D. Civil Air Patrol aircraft when engaged in actual search and rescue missions;

E. Aircraft engaged in landings or takeoffs while conducting tests, pursuant to written authorization of the Airport Manager, to determine probable compliance with the provisions of this Chapter. Such tests shall only be authorized for aircraft which, based on material submitted to the Airport Manager, are reasonably expected to be able to comply with the terms of this Chapter;



F. Aircraft experiencing an in-flight emergency; provided, however, that the aircraft Owner/Operator or pilot in command shall, within ten days after a written request from the City, file with the Airport Manager an affidavit documenting the precise emergency condition(s) which necessitated the Operation;

G. Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter.

H. Aircraft conducting operations in response to a medical emergency which has been documented in the manner required by the Airport Manager. (Ord. C-7320 § 2, 1995).

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#### **16.43.080 Presumptions for violation responsibility.**

A. In the case of any Training Operation in which both an instructor pilot and a student pilot are in an aircraft flown in violation of any of the provisions of this Chapter, the instructor pilot shall be presumed to have caused such violation.

B. For purposes of this Chapter, the beneficial owner of an aircraft shall be presumed to be the pilot of the aircraft with authority to control the aircraft's operation, except where the aircraft is leased, in which case the lessee shall be presumed to be the pilot with authority to control the aircraft's operation. Such presumptions may be rebutted only if the owner or lessee identifies the person who in fact was the pilot in command at the time of the asserted violation.

C. In each case in which the actual operator of an aircraft can be determined, such operator shall be responsible for compliance with the terms of this Chapter.

D. Employees of corporate owners/operators shall not be issued individual notices of violation unless it is shown that such employees failed to follow company operating procedures.

E. Notices given by the Airport Manager, when sent by First Class United States mail (and not returned), shall be deemed received five (5) days after mailing. (Ord. C-7320 § 2, 1995).

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#### **16.43.090 Violation enforcement.**

A. If the Airport's General Aviation Owner/Operators organize, maintain, and oversee the activity of a General Aviation Noise Committee (the "GA Noise Committee") to encourage voluntary noise abatement efforts, the Airport Manager will provide the GA Noise Committee with reports identifying aircraft Owner/Operators who have violated the provisions of this Chapter.

B. The GA Noise Committee, if formed, will publicize the Airport's noise abatement program and encourage compliance. In the case of General Aviation Owner/Operators which fail to comply with the City's enacted noise restrictions, the Committee shall be permitted to attempt to achieve voluntary compliance. If no Noise Committee is formed or if a General Aviation Owner/Operator does not comply with the City's enacted noise restrictions notwithstanding the Noise Committee's voluntary enforcement efforts, the Airport Manager will proceed with mandatory enforcement through the procedures of this Section 16.43.090, Section 16.43.100 of this Chapter, or both.

C. The Owner/Operator of any aircraft operated contrary to the provisions of this Chapter shall be given written notice by the Airport Manager that a violation has occurred. Said notice shall include a copy of the pertinent provisions of this Chapter and shall state that action must be taken by the Owner/Operator to insure compliance with this Chapter and all Airport regulations. Copies of the notices given by the Airport Manager under this Subsection shall be



made available to the GA Noise Committee upon reasonable notice so that the GA Noise Committee may endeavor to obtain voluntary compliance with the City's noise restrictions.

D. In the event of a violation of this Chapter after a notice pursuant to Subsection C above has been received or been deemed received, the Airport Manager shall give the Owner/Operator written notice of such violation. Said notice shall also state that the aircraft Owner/Operator must, within fourteen days after such notice has been received or been deemed received, prepare and implement a written compliance program for its Operations at Long Beach Airport and submit said compliance program to the Airport Manager for review. The Airport Manager shall extend this period upon a showing of good cause. The compliance program shall contain feasible steps, consistent with safety, by which the Owner/Operator expects to achieve compliance with the provisions of this Chapter and to minimize the noise of its Operations. The Airport Manager shall not approve or disapprove compliance programs, but may give notice to the Owner/Operator that one or more aspects of a compliance program are inconsistent with this Chapter or with other rules or regulations applicable to users of the Airport. The requirement that a compliance plan shall be prepared, implemented, and submitted to the Airport Manager shall not affect or excuse any violation of this Chapter occurring after the notice given pursuant to this Subsection D has been received or has been deemed received. Copies of the notices given by the Airport Manager under this Subsection shall also be made available to the GA Noise Committee upon reasonable notice.

E. A surcharge of one hundred dollars shall be paid by the Owner/Operator of any aircraft operated on one, but only one, occasion in violation of this Chapter within twenty-four months after a notice pursuant to Subsection D has been received or has been deemed received.

F. After a notice under Subsection D has been received or has been deemed received by an Owner/Operator, a surcharge of three hundred dollars shall be paid by such Owner/Operator for the second and for each subsequent violation of this Chapter occurring during any twelve month period.

G. No surcharge shall be sought for Operations occurring before (a) a notice pursuant to Subsection C advising said Owner/Operator that the aircraft has failed to comply with this Chapter and (b) a notice pursuant to Subsection D advising the Owner/Operator of a second violation and of the need for the preparation of a compliance program has been received or been deemed received by the Owner/Operator. The maximum surcharge for an Owner/Operator that has not been the subject of a notice of violation within the previous twelve months shall be one hundred dollars. Owner/Operators with no violations within the previous twenty-four months shall be processed pursuant to Subsection D above.

H. Any Owner/Operator who contests any decision of the Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110. (Ord. C-7320 § 2, 1995).

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#### **16.43.100 Alternative enforcement procedures.**

It is a misdemeanor, subject to the penalties applicable to misdemeanors, for the Owner/Operator of an aircraft to exceed any established SENEL limit without a reasonable basis for believing that the aircraft employed would comply with the applicable SENEL limit. Owner/Operators of scheduled Flights utilizing aircraft which comply with the standards of FAR Part 36 Stage 3 shall be presumed, for the purposes of this Section, to possess a reasonable basis for believing that such aircraft can be operated in compliance with applicable SENEL limits. (Ord. C-7320 § 2, 1995).

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#### **16.43.110 Administrative hearings and appeals.**



A. In any case where a person or entity notified of a violation of this Chapter or a decision of the Airport Manager or his staff under this Chapter which such person or entity contends is erroneous or unjustified, the person shall be entitled to an administrative hearing before the Airport Manager or his designee. The request for such a hearing shall be made within fifteen days following the mailing of notice of the decision to be reviewed or within ten days following actual receipt of notice delivered other than by mail. The Airport Manager shall give notice when the hearing will be conducted (which shall be between fourteen and twenty-one days after the request for a hearing is received). The administrative hearing shall be informal. Witnesses may be called, but written statements may be submitted. All relevant and persuasive evidence shall be considered. The rules of evidence, discovery, and formal trial procedures shall not be applicable. Following the hearing, the Airport Manager shall prepare a record of the proceeding, including a copy of all written materials received and a summary of the oral testimony presented. The Airport Manager shall, within ten days following the hearing, issue a written post-hearing decision. That decision shall be final unless appealed to the City Manager as provided in Subsection B below.

B. Any final decision of the Airport Manager pursuant to this Chapter shall be appealable to the City Manager by giving written notice to the City Manager within fifteen days following the mailings of a notice of final decision by the Airport Manager. The City Manager or his designee shall give such person or entity at least fifteen days' notice in writing specifying the time and place of the hearing of the appeal, and inviting such person or entity to present any additional argument deemed appropriate in determining whether a violation has occurred. The notice shall be served by U.S. mail, with service being complete upon mailing. The hearing may be held before a hearing officer designated by the City Manager; provided that the designated hearing officer shall not be from the same department as the Airport Manager, and shall be at least a Bureau Manager. The City Manager may, in the alternative, appoint an administrative hearing board consisting of not less than three members of the City's administrative staff, each of whom must meet the same criteria as an administrative hearing officer as described above. The appeal will be decided on the basis of the submissions to the Airport Manager, his summary of the evidence presented, and the arguments presented to the City Manager or his designee. The City Manager or his designee shall not be required to accept additional evidence. A written notice of decision shall be issued within fifteen days following the hearing on appeal. The final decision of the City Manager shall be final unless appealed to the City Council within fifteen days after the mailing of notice thereof by the City Manager.

C. Appeals of final decisions of the City Manager under this Chapter shall be conducted as provided in Chapter 2.93 of this Code.

D. The pendency of any proceeding pursuant to Section 16.43.110 shall not affect or excuse any violation of this Chapter occurring during the pendency of such proceedings unless the Airport Manager, the City Manager, or City Council stays the effectiveness of the decision under review. (Ord. C-7320 § 2, 1995).



### **16.43.120 Changes in methods of monitoring noise or calculating noise impacts.**

Neither the methods nor the devices used in measuring aircraft noise under this Chapter shall be changed or adjusted in any manner which would limit or restrict operations or activities which were permitted by this Chapter when it was initially adopted. (Ord. C-7320 § 2, 1995).