

September 20, 2022

Members of the Mineta San Jose International Airport Airport Commission,

At your last meeting, I submitted a letter (attached) to the commission regarding numerous issues at the airport. These were submitted to airport staff in February, 2022 at a public meeting and not responded to. In hindsight, my submission to the commission, which you accepted, was vague as to the intent. So I want to clarify that: Under SJMC 2.08.420(b), I am requesting a study and review of those items stated in the letter to the commission. Many of those items are long standing and have been before the commission on multiple occasions without resolution. Others are concerns that have been expressed by aviators and members of the public as items of interest.

Additionally, my goal in this letter is to focus the attention of the commission on the Airport Rules and Regulations as currently addressed in the San Jose Municipal Code (SJMC). Many of these rules were promulgated by airport management in another time and are either no longer needed or possibly in violation of the Federal Air Regulations or Grant Assurances. In simplest terms, despite many attempts by myself and others over many years to effect change to the Airport Rules and Regulations - Municipal Code Section 25, the airport has refused to act and address the concerns of the users and conflicts with the Federal Air Regulations.

Besides the unwillingness of the airport to address these deficiencies, there are other factors at play. The issue of enforcement is problematic on two fronts: 1) Rather than just being "Airport Rules and Regulations" enforced by airport staff through the authorization of the Director, they are codified in the Municipal Code which carries the rule of law within the city (along with the attendant penalties). The quote "All persons shall comply with all rules, regulations, and orders issued by the city and its officers and employees" in SJMC 25.06.010 further complicates which authorities are empowered to impact aviation activities and operations, and 2) The inconsistent, improper, and often non-existent enforcement of the SJMC has led to misunderstanding of the regulations and impotence where enforcement under the SJMC could exist. In many cases, these can be resolved by simple changes to wording, however, the airport has thus far failed to do so.

Allow me to give you a sampling of how the "Rules and Regulations" no longer function as written: SJMC 25.01.306 defines the Movement Area of the airport and contains the phrase "Specific approval for entry onto the movement area must be obtained from the control tower." That is fine except the Control Tower at SJC no longer operates 24 hours a day. Does this mean that the airport is closed when the Control Tower is closed? Does this mean that a pilot is subject to a fine (or removal from the airport as allowed under SJMC 25.06.030) for violation of the SJMC if they operate during these hours? More to the point, the airport has scheduled air carrier operations during these hours - are these in violation of the SJMC and subject to fine or worse? Has the lack of enforcement made these rules null and void?

25.1.030 again references Federal and state air traffic rules and places that authority and any variance thereof in the hands of the Air Traffic Tower. That contradicts the FAR that states that "The Pilot in Command is the final and ultimate authority as to the operation of the aircraft". Further, it fails to recognize the emergency authority of the Pilot in Command as to the operation of the aircraft.

Part 3 - Rules contains numerous conflicts with the FAR's and current operating practices. Examples are: 1) No taxiing without clearance from the control tower (referenced above as well), 2) Takeoff from the end of the runway, 3) statement of preferential takeoff and landing runways, and 4) designation of traffic pattern departure and arrival procedures.

25.12.510 Flight Instructor Restrictions is a misleading rule. An Airline Transport Pilot may instruct for the purposes of qualification for the ATP or Type-Rating in an aircraft. Under the

current regulation those activities are prohibited. Who on the airport staff would enforce this rule?

In passing, SJMC 25.12.1100 regarding exclusive petroleum rights should probably be changed to "or licensees of the city".

I would like to move on to another issue in the Rules that deserves attention: 25.14 Flying Clubs. This section of the code was promulgated many years ago when there were 6 flight schools on the airport (tenants) and a couple of large flying clubs based out of other airports established satellite operations at SJC with based aircraft but without a leased space. The rules were created to level the playing field and protect those flight schools.

That situation has changed markedly: 1) There are NO flight schools based at SJC, 2) In my opinion, none will be established (despite the need) in the future due to space and cost constraints, and 3) the rules make it almost impossible to establish a flying club due to operating, permitting, non-profit, compensation and lessor restrictions. Further, SJMC 25.14.300 prohibits non-based flying club aircraft from even utilizing the airport with out a permit, which is a violation of the grant assurances.

These are but some of the areas of the Rules and Regulations listed in SJMC Chapter 25 that deserve attention. I can tell you from personal experience as an Airport Commissioner that rewriting them will be time consuming and cumbersome but is desperately needed at Mineta San Jose International Airport.

Douglas Rice



## CALIFORNIA PILOTS ASSOCIATION

# Do you know your airports Rules and Regulations?

As pilots, we operate in a highly regulated endeavor. We abide by the operating limitations of our aircraft, flight school/flying club rules, insurance limitations, and of course the FAR's. Yet how many of us are knowledgeable on the rules our airports place on us and the possible penalties for a violation.

For me, this quest began during the administration of an airport director hell bent on regulating pilots to death and continued during my tenure as an airports commissioner. The rules that were proposed were not just drastic - they were ridiculous. How so: there was an attempt to regulate the length of leash you could use for your dog! There was a 30 day notice to vacate issued to a hangar tenant (who waited over 20 years to get a one) because a car belonging to the boss was in the hangar at the same time as the aircraft when she was dropped off on a business trip and the aircraft returned to its home base.

Don't get me wrong - airports need to have reasonable rules and regulations in place and their enforcement benefits everyone; HOWEVER, the airport also has the responsibility to ensure that they are reasonable and enforceable. As an example, a local airport has a rule in place that says "No aircraft shall be taxied from the parking area onto a taxiway or runway without clearance from the control tower." That's wonderful...if the tower operation is 24 hours. How do you comply if the tower is closed?

Here is another: "No one other than a pilot with an instructor's rating shall teach the art of flying on the airfield at the airport for hire, reward, or gratuitously, and no one other than a pilot with an instructor's rating shall check out students." Since when does the airport qualify instruction in aircraft? I know I have received instruction in a aircraft from someone who was not a current flight instructor. I even received a type-rating in a jet - ATP to ATP.

Here are a couple more: 1) No flying club shall operate any aircraft upon the airport unless it has obtained a flying club permit, 2) No flying club shall be issued a flying club permit unless it operates on a nonprofit basis, and 3) No flying club shall...provide compensation to any member in exchange for performing services to the flying club. Flight Instruction and aircraft checkouts?

Our airport directors are generally given significant authority to address these violations of the rules. They can range from a fine to complete removal from the airport and appeal options can be limited.

We all need to do a review of these regulations to ensure not only compliance but that they are reasonable. There is an inherent obligation on us to go to the airport director and question those we feel are unfair. Failing that, contacting the airports commission and/or the airport sponsor (city/county/port) for relief is appropriate.

As always, CalPilots is here to provide guidance in these matters.

Doug Rice  
Regional Vice-President, CalPilots

## **Members of the Mineta San Jose International Airport Commission**

The following questions were submitted to the speaker for the airport at a public meeting in February. At that time, the speaker was unable to answer almost all of the questions but referred them to Airport Operations for a response. To date, none has been forthcoming. Many of them have existed for some time and the commission may be unaware of them and thus interested in the response from staff.

I hope you find the questions and their responses thought-provoking.

Douglas Rice  
Former County Airport Commissioner  
Regional Vice President - California Pilots Association  
51 year SJC Pilot  
Retired Airline Pilot

Here are some topics/questions you can address this evening:

When will the city respect the airport and stop approving buildings in downtown that intrude into the departure airspace of the airport? Would you care to quantify the impact that this has on the airport as far as long haul/international flying? (ie. JetBlue needs to depart 15,000 lbs. lighter taking off southeast than taking off northwest due to downtown buildings being obstacles)

When is the airport going to address the need for facilities for small to mid-sized general aviation aircraft - some of which are not compatible with or safe to operate at RHV or PAO? Is the airport prepared to recognize the difference of non-commercial operations vs commercial operations as far as basing costs are concerned? Since there are no longer flight schools on the airport to "protect", when is the airport going to modify/ rescind the flying club ordinances?

How does the airport expect to handle the impacts of general aviation aircraft displaced from Reid Hillview if the airport is closed?

Would you quantify the loss in revenue to the airport by operations moving to Moffett Field - tax, fuel flowage, delays, etc. - recognizing that 8,000 departures occur every year at Moffett and each departure causes the loss of the equivalent of 1.5 departures slots off of San Jose International.

When is the airport going to address the lead paint issue on the airfield buildings?

When the airport does its next financial impact report, how will it quantify the "off budget" monies the airport generates through personal property and possessory interest taxes, gas taxes, and sales taxes that flow to the general fund and the local schools and not to the airport enterprise fund?

When will the airport address inconsistencies, irrelevancies, and conflicts with the FAR's found in Municipal Code Section 25 - Specifically Chapter 25.12 (Aircraft Operation and Flight Rules) and 25.14 (Flying Clubs)?

Our terminal building is a monstrosity - cold in the morning, hot in the afternoon - concessions closed - no moving sidewalks with long (over a mile) walks - temporary gates (Southwest - when is that project going to start) - etc. When/how will it be updated?

Airport runway capacity continues to be impacted by operations of smaller commuter aircraft and delays continue to rise due to air traffic impacts - how does the airport plan to mitigate these impacts as air travel recovers post-Covid?

How will the airport mitigate the high cost of corporate aircraft operations that are driving aircraft to be based outside the county, outside the state, and limit/eliminate fuel purchases that support local businesses and the local tax base? For reference, there are over 1400 aircraft registered in Santa Clara county and only 700-800 actually on the tax rolls. Also, fuel prices at SJC are out of line with surrounding airports (excluding SFO as they are a special case on fuel pricing) - how is that justified and how can the city exert pressure to reduce them and thus increase on and off budget revenue?