

Airport Commission Appeal Hearing Procedures for Curfew Administration Citations

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Hearing Procedure

- Curfew Administrative Citations
 - San Jose Municipal Code (SJMC) § 25.03.460

Hearing Procedure (cont'd)

- Standard of Review: De Novo (brand new)
- Informal hearing
- **Relevant** evidence
- Oral testimony under oath
- Witnesses, documents and physical evidence
- Recorded by audiotape
- Chair decides on hearing length and procedural issues = FINAL

Hearing Procedure (cont'd)

- Majority Vote needed to pass a motion, as long as quorum (6 members) is present
 - SJMC §§ 2.08.090, 2.08.410
- 11 members present: Need 6 to pass
- 10 members present: Need 6 to pass
- 9 members present: Need 5 to pass

Hearing Procedure (cont'd)

- Commission's Decision = FINAL
- Written Decision → Citation Recipient
 - Curfew Administrative Citations
 - SJMC § 25.03.470.E: “The recipient of the administrative citation shall be served with a copy of the airport commission's written decision.”

Decision Options

- 1) Continue Hearing if More Information is Needed
- 2) **Uphold** or **Cancel** Administrative Citation (SJMC § 25.03.470.A)
 - ****List reasons for decision****

Curfew Administrative Citations

- SJC Curfew
 - No aircraft operations 11:30 p.m. to 6:30 a.m.
 - Municipal Code §§ 25.03.220, 25.03.225

- Administrative Citation Fine = \$2,500 per violation
 - Amount set by ordinance
 - Municipal Code § 25.03.420
 - No discretion as to fine amount

Curfew Exemptions

- Curfew Exemptions = Cancel Citation
 - * Force Majeure Event *
 - Municipal Code §§ 25.03.320, 25.03.245
 - Government-Operated Aircraft
 - Municipal Code § 25.03.330
 - Grandfathered Aircraft
 - Municipal Code § 25.03.255
 - <https://www.flysanjose.com/sites/default/files/noise/curfew%20auth%2008072018.pdf>

Force Majeure Event defined

- Force Majeure Event: Event beyond pilot's control that delay aircraft operation, including
 - Unforeseen mechanical problems
 - FAA Air Traffic Control directives
 - Compliance with federal, state or local security directives
 - Weather-related impacts

Force Majeure Event defined

- Force Majeure Event: Events beyond pilot's control, including
 - Weather factors
 - Unscheduled closure at scheduled destination airport (not SJC)
 - Emergency to preserve life or property
 - Emergency operations during official federal, state or city emergency

Questions?