

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE,
CALIFORNIA, AMENDING ARTICLE 7 "ENFORCEMENT" OF CHAPTER 1,
DIVISION 5 OF THE TORRANCE MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1

That Article 7 "Enforcement" of Chapter 1, Division 5 of the Torrance Municipal Code is amended in its entirety to read as follows:

"ARTICLE 7 - ENFORCEMENT

51.7.1 DESIGNATED OFFICERS AND EMPLOYEES.

- a) The City Manager or his designee(s) acting under the direction and control of the City Manager shall have the duty and authority to enforce the provisions of this Division 5 and all other laws, rules and regulations pertaining to the use of the Airport pursuant to the provisions of Section 836.5 of the State Penal Code.
- b) Acting under the direction and control of the City Manager, airport security officers who are peace officers shall also have the duty and authority to enforce the provisions of this Division 5 and all other laws, rules and regulations pertaining to the use of the Airport.

51.7.2 DENIAL OF USE OF AIRPORT.

- a) In the event that any person has been convicted of three (3) or more cumulative violations of the provisions of this ~~Chapter 4~~ Article, or of Sections 46.8.8- or 46.8.9- or of any other laws, rules or regulations of the City, State or the United States of America pertaining to the use of the Airport (including forfeiture of bail after being arrested or charged by citation or complaint with any such violation) within a three (3) year period, then for a period of three (3) years thereafter, such person shall be denied the right to land or takeoff from the Airport, except in bona fide emergencies for the preservation of life or property as reasonably determined by the Airport Manager and shall be denied the right to lease, rent or use space for aircraft (including tie-down) at the Airport insofar as the City has the right to deny such use of said Airport.
- ~~b) For the purposes of this Section, a determination of guilty by the Administrative Hearing Board in accordance with the provisions of Section 51.7.4. shall have the same effect as a conviction by a court.~~

51.7.3 EXCLUSION OF VIOLATION-PRONE AIRCRAFT.

In the event that any aircraft has been found to be the cause of three (3) or more violations of this Article, or of Sections 46.8.8 or 46.8.9 within a three (3) year period, regardless whether the ~~operator, owner or pilot of said aircraft operator or operators of said aircraft~~ have been convicted of any criminal act or have been found to be in violation of said sections by the ~~Administrative Hearing Board~~ Hearing Officer, or City Council upon appeal, as provided for in Section 51.7.4, then it shall be presumed that operation of such aircraft will result in continued violation of the provisions of this Article, or of Sections 46.8.8- ~~and-or~~ 46.8.9., and for a period of three (3) years thereafter such aircraft will not be permitted to tie down or be based at Torrance Airport; nor shall

such aircraft be permitted to land at or take off from the Airport except in emergencies for the preservation of life or property or as directed by the Torrance Air Traffic Control Tower or the Federal Aviation Administration for a period of three (3) years thereafter, as reasonably determined by the Airport Manager; provided, however, that the owner or operator of such aircraft shall be entitled to rebut such presumption to the reasonable satisfaction of the Airport Manager by furnishing evidence to the contrary, including but not limited to, changes in operating personnel, retrofitting measures, changes in engine or maintenance.

~~A decision of the Airport Manager which sustains the presumption is a decision that may be appealed to the City Council pursuant to the provisions of Article 5 of Chapter 1, Division 1 of the code.~~

51.7.4 ENFORCEMENT.

- a) ~~In the event that~~ Any person is charged with piloting or operating or otherwise causing an aircraft to violate this Article or exceed the single event noise exposure levels (SENEL) or maximum sound exposure levels set forth in Section 46.8.8. or 46.8.9., the guilt or innocence of such person shall be determined by a Hearing Officer ~~the Administrative Hearing Board~~ after a hearing thereon.
- b) The charge may be made by the issuance of a Notice to Appear to the pilot of said aircraft, if known. It is the responsibility of the operator, owner, or lessee of said aircraft to provide the pilot information to the City. If the pilot of said aircraft is not known, and the operator, owner, or lessee of said aircraft is not cooperative in providing the pilot information, then the Notice to Appear will be issued to the operator, owner, or lessee of said aircraft who will be held liable for the aircraft violation(s). The Notice to Appear shall be served by first class mail at least 25 calendar days before the scheduled hearing date before the Hearing Officer. In addition to the Notice to Appear being served by first class mail, the City may also deliver through physical delivery, delivery by overnight carrier service, or delivery by digital mail. citation in the same manner as provided for misdemeanor citations by Section 836.5 of the State Penal Code. Otherwise, it shall be made by complaint served on the defendant in the manner of complaints in civil cases in the Superior Court.
- c) ~~The hearing shall be conducted in accordance with the requirements of due process of law. Persons accused shall have the right to be represented by counsel, to be apprised of the nature of the charges, to offer evidence and to examine witnesses. The Administrative Hearing Board shall adopt rules of procedure for such purpose.~~
- d) ~~The decision of the Administrative Hearing Board may be appealed to the City Council pursuant to the provisions of Article 5 of Chapter 1, Division 1 of the Code.~~

51.7.5 HEARING PROCEDURE.

- a) A hearing before the Hearing Officer shall be set for a date that is not less than twenty-five calendar days and not more than ninety calendar days from the mailing date listed on the Notice to Appear.
- b) The hearing shall be conducted by a Hearing Officer on the date, time and place specified in the Notice to Appear.
- e) The Hearing Officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the Person accused has caused or maintained the violation(s). Formal rules of evidence shall not apply. Relevant hearsay evidence and written reports may be

admitted whether or not the speaker or author is present to testify, if the Hearing Officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the Hearing Officer in accordance with the fundamentals of due process. The Hearing Officer may limit the total length of the hearing to one hour.

- f) At the hearing, the Person accused shall be given the opportunity to present, either themselves or through a representative, evidence and testimony concerning the violation(s). The City's case shall be presented by any authorized agent of the City.
- g) The failure of the Person accused to appear at the hearing, either personally or through counsel, shall be deemed an admission that the violation(s) in question was appropriately and validly issued against the Person accused and the aircraft.
- h) The Hearing Officer may consolidate into one (1) hearing all outstanding violations relating to the same Person accused.
- i) The Hearing Officer may continue the hearing and request additional information from the City or the Person accused prior to issuing a written decision.

51.7.6 HEARING OFFICER'S DECISION.

- a) After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to all parties within thirty calendar days of the hearing and shall either affirm or dismiss the violation(s). The serving of the written decision shall be by any means deemed adequate to the City, which includes but is not limited to physical delivery, delivery by first class mail, delivery by overnight carrier service, or delivery by digital mail.
- b) All decisions of a Hearing Officer shall become final unless appealed to the City Council pursuant to the provisions of Article 5 of Chapter 1, Division 1 of the Code.

51.7.75 UNLAWFUL TO USE AIRPORT AFTER USE DENIED.

Except as provided otherwise in Sections 51.7.2 and 51.7.3:

- a) It shall be unlawful and a misdemeanor for any person to land an aircraft on or ~~takeoff~~take off an aircraft from the Airport after he or she has been denied the use of the Airport in accordance with the provisions of Section 51.7.2.; or
- b) It shall be unlawful and a misdemeanor for any person to land an aircraft on or ~~takeoff~~take off any aircraft from the Airport after such aircraft has been excluded from the Airport pursuant to the provisions of Section 51.7.3.

51.7.86 CULPABILITY OF INSTRUCTOR PILOTS.

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

51.7.97 CULPABILITY OF AIRCRAFT OWNER OR LESSEE.

For purposes of this Chapter, if the pilot of an aircraft cannot be otherwise identified, 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 that where the aircraft is leased, the lessee shall be presumed to be the pilot. Such presumption may be rebutted only if the owner or lessee identifies the person who in fact was the pilot at the time of the asserted violation.

51.7.108 REGISTRATION OF AIRCRAFT.

- a) The Airport Manager shall keep a register of aircraft based at the Airport. The names, addresses and other reasonable identification, as determined by the Airport Manager, of the legal and beneficial owners, the lessee (if any), the operators and the authorized pilots of each such aircraft shall be entered ~~in~~into the register.
- b) For the purposes of this Section, an aircraft which remains at the Airport for a period longer than twenty-four (24) consecutive hours or for a cumulative time of more than seventy-two (72) hours in any thirty (30) day period shall be deemed to be based at the Airport.
- c) It shall be unlawful for any owner, lessee, operator or pilot of any aircraft based at the Airport to fail to register such aircraft with the Airport Manager.

51.7.119 HEARING OFFICER.

~~The City Manager, or his or her designee, shall select a fair and impartial Hearing Officer for the hearing. The Hearing Officer shall not be a current Torrance City employee. The Administrative Hearing Board, which shall hear aircraft related matters including alleged violations of Sections 46.8.8 and 46.8.9, shall be comprised of three (3) members. The members of the Board shall be appointed by the City Manager as specified in Section 12.2.1 of the Municipal Code."~~

SECTION 2

Any provisions of the Municipal Code or its appendices, or any other ordinances of the City of Torrance inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

SECTION 3

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Torrance hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

SECTION 4

This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, et seq., the "CEQA Guidelines"). This Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15378, because the activity undertaken involves general text amendments to the Torrance Municipal Code that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, as such, the Ordinance does not meet the definition of a "Project" under

CEQA. The Ordinance is also exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. The Ordinance would make pre-existing public nuisance regulations more robust and protective of neighboring communities.

SECTION 5

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED and **APPROVED** this _____ day _____ 2024.

ADOPTED and **PASSED** this _____ day of _____ 2024.

Mayor George Chen

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney

ATTEST:

By: _____
Tatia Y. Strader, Assistant City Attorney

Rebecca Poirier, City Clerk