



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Traffic Bail Schedule and
Update to Infraction List, SJMC
Section 1.08.020

DATE: October 10, 2019

RECOMMENDATION

- (a) Approve recommended changes to the City of San José Traffic Bail Schedule and direct the City Attorney to submit the recommended changes in the Traffic Bail Schedule to the Superior Court Bail Committee.
- (b) Approve an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions.

OUTCOME

The proposed Traffic Bail Schedule will add San José Municipal Code ("SJMC") Section 13.44.130 as an infraction to be filed in the Traffic Court, delete Section 11.32.060, which has been repealed, and make clerical and technical corrections consistent with prior Council approvals that are not accurately reflected in the current Traffic Bail Schedule. The Infraction Ordinance will be updated to add violations of Section 13.44.130 as a designated infraction and make clerical and technical corrections consistent with prior Council approvals.

BACKGROUND

California Penal Code Section 1269b requires each county superior court to prepare, adopt and revise a countywide schedule of bail for all misdemeanor and infraction offenses. The Santa Clara County Superior Court has divided the Bail Schedule into two parts – the Recommended Schedule for Traffic Court and the Recommended Schedule for Criminal Court. The Bail Schedules contain a list of offenses, amounts of bail, whether a given violation is a misdemeanor or infraction, and other related information. For violations for which no court appearance is required, a person may pay the bail amount if the person wishes to plead to the offense.

The maximum punishment for infractions, as specified in Section 1.08.010 of the San José Municipal Code, is a fine not to exceed \$100 for a first violation, a fine not to exceed \$200 for a second violation within the same year, and a fine not to exceed \$500 for a third violation within the same year. A fourth violation within the same year is deemed a misdemeanor. Under the City Charter and the Municipal Code, the penalty for conviction of a misdemeanor is a fine in an amount not to exceed \$1,000 or by imprisonment not to exceed six months, or by both fine and imprisonment.

The City submits recommended changes in the Bail Schedules to the Santa Clara County Superior Court on a periodic basis in order to maintain current Bail Schedules and make updates and corrections as needed. The Superior Court then reviews the City's recommended changes and incorporates changes as approved by the Superior Court Bail Committee. The Court has the choice of accepting, rejecting, or modifying the City's recommendations.

ANALYSIS

Violations of SJMC Section 13.44.130, which addresses smoking in City park areas, are currently filed as misdemeanors in the Criminal Court. The City previously relied on the District Attorney's Office ("DA") to type up and file complaints for SJMC violations, however the DA has refused to continue to do so. Filing in Criminal Court requires that each violation have a paper complaint, and the City does not have the same resources devoted to processing complaints as the DA's office. Therefore, the City Attorney's Office desires to designate violations of SJMC Section 13.44.130 as infractions to be filed in Traffic Court, because these citations may be filed without a complaint.

Additionally, SJMC Section 11.32.060, "Restrictions on use of Guadalupe Parkway", currently listed on the Traffic Bail Schedule as an infraction with a bail amount of \$25.00, was repealed on May 15, 2018 by Ordinance No. 30100, and is recommended for deletion from the Traffic Bail Schedule. Attachment 1, "Recommended Additions, Deletions, Modifications to Traffic Bail Schedule," lists the recommended revisions.

In addition to the revisions specified in the Attachment, the City's Recommended Traffic Bail Schedule reflects changes where Municipal Code sections previously listed in the Traffic Bail Schedule require clerical technical corrections consistent with prior Council approvals submitted to the Superior Court that are not accurately reflected on the Bail Schedules. Technical corrections include, but are not limited to, minor errors such as incorrect Municipal Code section numbers, incorrect offense descriptions, incorrect bail amounts, incorrect crime category designations, incorrect court division placement, duplicate listings, and items that were inadvertently deleted or dropped. Technical corrections are noted in blue on the posted Recommended Traffic Bail Schedule.

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PUBLIC OUTREACH

This memorandum and the associated Recommended Traffic Bail Schedule are posted on the City's website for the October 22, 2019 City Council agenda.

COORDINATION

The requested modifications to the Traffic Bail Schedule have been coordinated with the Police Department.

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

RICHARD DOYLE

City Attorney

By



CARL B. MITCHELL

Sr. Deputy City Attorney

cc: David Sykes

For questions please contact Carl Mitchell, Senior Deputy City Attorney, at (408) 535-1919

Attachment 1: Recommended Additions, Deletions, Modifications to Traffic Bail Schedule

ATTACHMENT 1

RECOMMENDED ADDITIONS, DELETIONS, MODIFICATIONS TO
TRAFFIC BAIL SCHEDULE

SJMC Section	Subject Matter	Recommendation	Reason for Change
13.44.130	Smoking in restricted areas of City Parks	Add: Infraction - \$50.00	City Attorney's Office desires to designate as an infraction to be filed in Traffic Court, rather than a misdemeanor in Criminal Court
11.32.060	Restrictions on use of Guadalupe Parkway	Delete: Infraction - \$25.00	Ordinance No. 30100 adopted 05/15/2018 – repealed §11.32.060 of Title 11