



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Traffic and Criminal Bail  
Schedules and Update to  
The Infraction List, SJMC  
Section 1.08.020

**DATE:** August 16, 2012

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## RECOMMENDATION

- (a) Approve recommended changes to the City of San José Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules 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 Bail Schedules and Infraction Ordinance will incorporate recent modifications made to the Municipal Code as well as technical corrections and recommended modifications to bail amounts made by City departments.

## BACKGROUND

California Penal Code Section 1269b(d) requires each county superior court to prepare, adopt and revise a countywide schedule of bail for all misdemeanor and infraction offenses. The Santa Clara 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 some 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 in Traffic Court 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 in Criminal Court is a fine in an amount not to exceed \$1,000 or by imprisonment not to exceed 6 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. 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**

Since the City Council last approved changes to the Bail Schedule on April 6, 2010, there have been amendments to the San Jose Municipal Code. The City Attorney's Office has worked with the enforcing departments to update the City's Recommended Bail Schedules, which includes the recommended revisions to ensure consistency with modifications made to the Municipal Code as well as overall consistency. The following attachments list the recommended revisions to the Bail Schedules:

- |              |   |
|--------------|---|
| Attachment 1 | Recommended Additions, Deletions, and Modifications to Traffic Bail Schedule  |
| Attachment 2 | Recommended Additions, Deletions, and Modifications to Criminal Bail Schedule |

In addition to the revisions specified in the Attachments, the City's Recommended Bail Schedules for this current period reflect changes where Municipal Code sections previously listed in the Bail Schedules have been repealed, renumbered, retitled or require technical corrections consistent with prior Council approvals. Technical corrections include, but are not limited to, minor errors that were found such as incorrect Municipal Code section numbers, incorrect bail amounts, and items that were inadvertently deleted or dropped, and are highlighted on the posted Bail Schedules.

The list of infractions, San José Municipal Code Section 1.08.020, is being updated as follows:

- **Add** Section 6.60.070B – Public Entertainment Business; Identification Card Requirements
- **Add** Section 6.60.350 – Posting of Public Entertainment Permit or License
- **Delete** Sections 11.72.020, 11.72.060, and 11.72.070 – Bicycle Licensing Requirements

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August 16, 2012

**Subject: Bail Schedule**

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### **PUBLIC OUTREACH**

This memorandum and associated recommended Bail Schedules are posted on the City's website for the August 28, 2012 agenda.

### **COORDINATION**

The requested modifications to the Bail Schedules and to Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code have been coordinated with the affected enforcing departments.

### **CEQA**

Not a Project; PP10-069, Organizational & Administrative activities.

RICHARD DOYLE  
City Attorney

By   
CARL B. MITCHELL  
Senior Deputy City Attorney

cc: Debra Figone

For questions, please contact Carl Mitchell, Senior Deputy City Attorney,  
at (408) 535-1900.

Attachments

<b>SJMC Section</b>	<b>Subject Matter</b>	<b>Recommendation</b>	<b>Reason for Change</b>
			Schedule
10.12.020	Drinking Alcoholic Beverages at P.A.L.	<b>Add:</b> Misdemeanor – \$100	Technical correction – inadvertently omitted from Bail Schedule
10.12.070	Display of Female Breasts Prohibited	<b>Add:</b> Misdemeanor – \$100	Technical correction – inadvertently omitted from Court's Bail Schedule
10.12.090	Nude Display in Public Places – Violation of Provisions of this Chapter	<b>Add:</b> Misdemeanor – \$100	Technical correction – inadvertently omitted from Bail Schedule
10.12.110	Public Urination and Defecation Prohibited	<b>Modify:</b> Infraction – \$25	Technical correction – incorrectly stated on Court's Bail Schedule
11.36.100	Parking for Certain Purposes Prohibited	<b>Add:</b> Misdemeanor – \$250	Technical correction – inadvertently omitted from Court's Bail Schedule
11.72.020 11.72.060 11.72.070	Bicycle Licensing Requirements	<b>Delete</b>	Ordinance No. 28855 adopted 11/30/2011 – eliminated licensing fees
13.28.070 13.28.110 13.28.120 13.28.145 13.28.150 13.28.190A 13.28.200 13.28.350	<u>Street Trees, Hedges, and Shrubs</u>	<b>Delete</b>	Ordinance No. 29000 adopted 11/29/2011 – revised Chapter 13.28 of Title 13
13.28.360	Posting Notice of Street	<b>Add:</b>	

SJMC Section	Subject Matter	Recommendation	Reason for Change
	Tree Removal	Misdemeanor – \$100	
13.28.370	Presentation of Permit on Request	<b>Add:</b> Misdemeanor – \$100	
13.28.410	Disclosure Obligations Upon Sale or Transfer of a Residential Real Property	<b>Add:</b> Misdemeanor – \$250	
13.28.420	Interfering with Maintenance Work or Injuring Street Trees Prohibited	<b>Add:</b> Misdemeanor – \$100	
13.28.440	Hazardous Conditions; Sight Obstructions on Private Property	<b>Add:</b> Misdemeanor – \$100	
13.28.500	Notice of Violation of any Provisions of this Chapter	<b>Add:</b> Misdemeanor – \$100	
13.28.650	No Interference with Enforcement of this Chapter	<b>Add:</b> Misdemeanor – \$100	
15.10.235	<u>Water Waste Prevention and Water Shortage Measures:</u> Hotels to Provide Water Conservation Notice in Bathrooms	<b>Add:</b> Misdemeanor – \$250	Ordinance No. 28597 adopted 06/16/2009 – revised Chapter 15.10 of Title 15
15.10.290A	Landscape Irrigation During Certain Hours	<b>Add:</b> Misdemeanor – \$250	
15.10.290B	Landscape Irrigation for more than 15 Minutes per day Prohibited	<b>Add:</b> Misdemeanor – \$250	
15.10.320	If Water Shortage – Filling of Ornamental	<b>Add:</b> Misdemeanor – \$250	

SJMC Section	Subject Matter	Recommendation	Reason for Change
	Lakes/Ponds Prohibited		
15.10.325	If Water Shortage – Car Washing Prohibited	<b>Add:</b> Misdemeanor – \$250	
15.10.330	If Water Shortage – Filling Residential Swimming Pools Prohibited	<b>Add:</b> Misdemeanor – \$250	
15.10.340A	Must Use Bucket to Clean Surfaces	<b>Add:</b> Misdemeanor – \$250	
15.10.340B	Must Use Bucket to Clean Structures	<b>Add:</b> Misdemeanor – \$250	
15.10.355	Must Repair Leaks During Water Shortage	<b>Add:</b> Misdemeanor – \$250	

**ATTACHMENT 2**

**RECOMMENDED ADDITIONS, DELETIONS, MODIFICATIONS TO  
CRIMINAL BAIL SCHEDULE**

<b>SJMC Section</b>	<b>Subject Matter</b>	<b>Recommendation</b>	<b>Reason for Change</b>
6.60.250	<u>Public Entertainment Business:</u> Waiting Lines at Public Entertainment Establishments	<b>Add:</b> Misdemeanor – \$250 + Court appearance	Ordinance No. 28840 adopted 10/26/2010 – revised Chapter 16.60 of Title 6
6.60.255	On-Site Manager on Premises	<b>Add:</b> Misdemeanor – \$250 + Court appearance	
6.87.200	<u>Tobacco Retail License:</u> Retail License Required	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Ordinance No. 28875 adopted 12/14/2010 – added Chapter 6.87 to Title 6
6.87.300	Operating Regulations and Conditions	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
6.87.305	Operation Must Be Lawful	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	
6.87.330	Examine Identification Before Selling Tobacco Products	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	
6.87.340	No Minors Selling Tobacco Products – Minimum Age Required	<b>Add:</b> Misdemeanor – \$750 + Court appearance	
6.87.350	No Self-Service Displays	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
6.87.360	No False Or Misleading Advertising	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
6.87.370	Tobacco Establishment Must Be Fixed Location	<b>Add:</b> Misdemeanor – \$500	

SJMC Section	Subject Matter	Recommendation	Reason for Change
		+ Court appearance	
6.87.410	Nontransferable License and Exemption	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
9.10.445	Improper Storage of Solid Waste	<b>Delete</b>	Technical correction – section previously repealed
9.10.550D	Solid Waste from Outside City	<b>Delete</b>	Technical correction – incorrect section cited
9.10.550F	Solid Waste from Outside City	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – cited as §9.10.550D
9.10.590	Records – Maintenance, Audit and Inspection of Solid Waste Collection Business	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
9.10.1090	Debris Boxes for Residential Rubbish Requirements	<b>Add:</b> Misdemeanor -- \$500 + Court appearance	Technical correction – inadvertently omitted from Bail Schedule
9.10.1100	Placement of Solid Waste	<b>Add:</b> Misdemeanor - 1 <sup>st</sup> offense – \$25 2 <sup>nd</sup> offense within 36 months – \$500 3 <sup>rd</sup> offense within 36 months – \$1,000 + Court appearance	Ordinance No. 28859 adopted 11/30/2011 amended sections of Chapter 9.10 of Title 9
9.10.1800	Improper Commingling of Waste Streams	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule

SJMC Section	Subject Matter	Recommendation	Reason for Change
9.10.2020	Single Use Carryout Bag	<b>Add:</b> Misdemeanor – 1 <sup>st</sup> offense – \$500 2 <sup>nd</sup> offense within 36 months – \$750 3 <sup>rd</sup> offense within 36 months – \$1,000 + Court appearance	Ordinance No. 28877 adopted 12/14/2010 added Part 13 to Chapter 9.10 of Title 9
9.60.330	Mandatory Abandoned Cart Prevention Plan	<b>Add:</b> Misdemeanor – \$250 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
10.20.160	Entrance into Parking Facilities After Closing	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
10.28.100	Youth Protection Curfew Prohibition	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
10.46.030	Failure of Driver to Obey Lawful Order to Divert/ Detour	<b>Add:</b> Infraction 3 <sup>rd</sup> offense – \$500 + Court appearance Subsequent offenses – \$1,000 + Court appearance (1 <sup>st</sup> and 2 <sup>nd</sup> offenses in Traffic Court)	Technical correction – inadvertently omitted from Court's Bail Schedule
12.06	Compliance with Chapter – Campaign Contribution Limitations and Prohibitions	<b>Delete</b>	Compliance/ enforcement is by complaint to the Elections Commission
13.28.080 13.28.130	<u>Street Trees, Hedges, and Shrubs</u>	<b>Delete</b>	Ordinance No. 29000 adopted 11/29/2012

SJMC Section	Subject Matter	Recommendation	Reason for Change
13.28.230	Prohibition of Violation of Chapter	<b>Add:</b> Misdemeanor – \$500 + Court appearance	revised Chapter 13.28 of Title 13
13.28.300	Planting of Street Tree – Permit Required	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
13.28.310	Pruning or Removal of Street Tree – Permit Required	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
13.28.380	Revocation of Permit	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
15.28.970	Tampering with Cable System Prohibited	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
16.32.110	<u>Cardroom Licenses:</u> Cardroom License Application	<b>Add:</b> Misdemeanor – \$750 + Court appearance	Ordinance No. 29039 adopted 02/14/2011 revised Chapters 16.06, 16.30, 16.32, and 16.33 of Title 16
16.32.190	Cardroom License Renewal	<b>Add:</b> Misdemeanor – \$750 + Court appearance	
16.32.620	Temporary Key Employee License	<b>Add:</b> Misdemeanor – \$750 + Court appearance	
16.33.010	Notice of Minor Violation; Imposition of Monetary Fines	<b>Delete</b>	
16.40.010	Cardroom Employee Provisional Work Permits	<b>Add:</b> Misdemeanor – \$750 + Court appearance	Technical correction – inadvertently listed as §16.04.010

SJMC Section	Subject Matter	Recommendation	Reason for Change
17.23	Compliance with Chapter – Rental Dispute Mediation and Arbitration for Dwelling Units	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court’s Bail Schedule
17.38.030	<u>Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings:</u> Compliance with Chapter Required	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Ordinance No. 28745 adopted 05/18/2010 – revised Chapter 17.38 of Title 17
17.38.200	Vacant or Abandoned Buildings Prohibited	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
17.38.210	Structural and Building Standards	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	
17.38.220	Fire Safety Standards	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	
17.38.230	Security Standards	<b>Add:</b> Misdemeanor – \$750 + Court appearance	
17.38.240	Debris Removal	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
17.38.250	Appearance of Vacant or Abandoned Buildings	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
17.38.260	Vacant or Abandoned Historic Building	<b>Add:</b> Misdemeanor – \$500 + Court appearance	
17.82.110	Wood Frame Construction without Permit	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court’s Bail Schedule

<b>SJMC Section</b>	<b>Subject Matter</b>	<b>Recommendation</b>	<b>Reason for Change</b>
17.82.310	Hot Work without Fire Safety Officer Present	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
17.82.320	Wood Frame Construction without Access Road	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
17.82.330	Wood Frame Construction without Mitigating Fire Protection Barriers	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – inadvertently omitted from Court's Bail Schedule
20.70	Downtown Zoning Regulations	<b>Delete</b>	Technical correction – incorrect section cited
20.70.020B	Downtown Zoning District – Compliance Required	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Technical correction – cited as §20.70
20.75.010B	Pedestrian Oriented Zoning Districts – Compliance Required	<b>Add:</b> Misdemeanor – \$1,000 + Court appearance	Ordinance No. 28858 adopted 11/30/2010 added Chapter 20.75 to Title 20
20.80.1420	Outdoor Private Property Special Event – Permit Required	<b>Add:</b> Misdemeanor – \$500 + Court appearance	Technical correction – incorrectly listed as §20.80.1320 on Court's Bail Schedule

\* When Court appearance is mandatory, penalty assessment is not to be added to the bail, however, it shall be added to the fine upon conviction