

June 3, 2016

Re: Approval of Municipal Bail Schedule by the Los Angeles Superior Court.

Please review the attached “Information on establishing and changing bails for municipal code violations.”

Bail schedules may be submitted in January and July. The approval process can be quite lengthy. To obtain approval you must send a copy of the bail schedule request to the chair of the bail committee. Please include a resolution or ordinance from the governing body requesting the change.

When submitting your request please include:

- 1) An explanation for deviating from the default bail amount for infractions;
- 2) An explanation for imposing fines for ordinances already occupied by state statutes, including the Vehicle Code;
- 3) An explanation of the differences between the city’s prior approved bail schedule and the current proposed bail schedule;
- 4) An explanation distinguishing the city’s proposed bail schedule from a fine schedule.

Bail Schedule Requests may be sent to:

Presiding Judge
Los Angeles Superior Court
111 North Hill Street, Room 620
Los Angeles, CA 90012

With a copy to:

Chair, Bail Committee
Los Angeles Superior Court
210 W. Temple Street
Los Angeles, CA 90012

GUIDE TO ESTABLISHING AND CHANGING BAILS

FOR MUNICIPAL CODE VIOLATIONS

I. Background and Statutory Authority

Municipalities are statutorily authorized to prescribe fines for violations of municipal ordinances. (Government Code §§ 36900, 36901.) That power does not extend to establishing bails for those violations. The authority to establish bails for violations within a county lies exclusively with the courts according to Penal Code § 1269b, subdivision (d).

II. Parking Penalties Not Subject to Court Approval

The authority for establishing and changing parking penalties lies exclusively with the governing body (e.g., a city council) of the local jurisdiction. Court approval is not required to establish or amend parking penalties. (Vehicle Code § 40203.5.)

III. Classification of Offenses

A violation of a city ordinance is a misdemeanor, unless by ordinance the city declares it to be an infraction. (Government Code § 36900, subd. (a).) The reverse is the case for ordinances adopted pursuant to the Vehicle Code; violation of those ordinances constitute infractions, unless the violations are specified as misdemeanors in Article 1, Chapter 1 of Division 17 (commencing with Vehicle Code § 40000.1).

IV. Misdemeanor Rights

Persons charged with misdemeanors have the right to a jury trial and, if indigent, the right to a public defender or court-appointed counsel. (Cal. Const., Art. I, §§ 15, 16.) Persons charged with infractions do not have those rights. (See Penal Code § 19.6.)

V. Bails for Violations of State Statutes

Cities cannot prescribe bails for state statute violations. (See Penal Code § 1269b.) For violations of state statutes, cities must adhere to the Los Angeles County Superior Court Bail Schedule for Infractions and Misdemeanors.

However, cities may enact municipal ordinances that are based on state statutes and prescribe fines for those violations unless preempted by state law. (See Vehicle Code § 21 and Government Code § 37100.)

VI. Limitations on Bail Amounts

A. Vehicle-Related Ordinances Adopted Pursuant to the Vehicle Code (Vehicle Code §§ 42001, 42002, 40310)

Bail on ordinances adopted pursuant to the Vehicle Code, unless otherwise provided, must not exceed the following amounts:

Infractions: \$100 for a first violation, \$200 for a second violation of the same ordinance within one year, and \$250 for a third or subsequent violation within one year.

Misdemeanors: Varies by statute on which ordinance is based, up to a maximum fine of \$1,000.

B. General Ordinances

Infractions: Bail may not exceed \$100 for a first violation, \$200 for a second violation of the same ordinance within one year, and \$500 for a third or subsequent violation within one year. (See Government Code § 36900, subd. (b).)

Misdemeanors: Bail is permitted up to a maximum of \$1,000. (See Government Code § 36901.)

VII. Proof of Correction or Compliance

For some ordinance violations (e.g., zoning violations), a municipality may want proof of correction or compliance (e.g., proof that a nuisance has been corrected or abated) in addition to, or in lieu of, payment of bail. In those cases indicate that by noting "+ P.C." or "or P.C." next to the proposed bail amount.

VIII. Form of Request to Establish or Change Bail Amounts

A city council, mayor, city manager, city attorney, chief of police, or other appropriate municipal officer may submit a request in writing. A request frequently will include a city council resolution when a municipality enacts a new bail schedule.

Included in a request is language that generally incorporates the following information:

The city attorney, agency or officer's title requests that the Superior Court of the County of Los Angeles approve the establishment or amendment of bails for violations of the name Municipal Code, as shown in the enclosed document(s).

IX. Approval Process

The process for approving municipal bail schedules may require some time. All bails must preliminarily be approved by the Los Angeles County Superior Court Bail Committee. The Executive Committee of the

Court then reviews the request and votes on it. (See Penal Code § 1269b subdivision (d) and Government Code § 72621.) Accordingly, please allow sufficient time for the approval process.

X. Preliminary Assistance Prior to City Action

Changes in municipal bail schedules are not a frequent occurrence. It may be helpful to have the municipal bail schedule reviewed for any possible problems prior to being submitted to the city council for approval. For assistance with any questions about the approval process, please contact Lindsay Boyd at lboyd@lacourt.org.

XI. Where to Send a Request for Approval

Send Bail Schedule Requests to:

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