

MUNICIPAL COURT  
CITY OF MONTE VISTA

ADVISEMENT OF RIGHTS

The purpose of this court is to give you an opportunity to be heard, and to provide you with a place to obtain a fair and impartial hearing on any charge. The Court does not operate as an arm of the Police Department.

This Court does not settle questions of civil damages but may enter orders for restitution (Payment to victim by a defendant, for actual damage). No decision of this court is admissible in any other court except on appeal from this Court.

If you are under 18 years of age, one of your parents or your Legal Guardian must be in court with you. You have, among others, the following rights:

1. To be represented by an attorney (a lawyer). You don't have to be represented by an attorney if you don't want one. If you can afford an attorney, you may hire the attorney of your choice. If you want an attorney but believe that you are indigent (you don't have enough money to pay for an attorney) and cannot afford an attorney, you should request appointed counsel. You will be required to file an Affidavit of Indigence with the court, in which you swear, under oath, to your financial status (how much property, income, debts, and expenses you have). The Court will make the final decision as to whether or not an attorney will be appointed for you, based upon your financial status, the recommendation of the City Attorney's office and the seriousness of the offense. In any event, if you are in fact indigent and request an attorney and are denied an appointed attorney, you cannot be given a jail sentence if later convicted, although the maximum fine can be imposed together with court costs. If you waive your right to an attorney, you can be given a jail sentence whether or not you are indigent.
2. To a reasonable continuance of your case, for cause, either to: consult with an attorney; prepare an Affidavit of Indigence; consider your plea; prepare for trial; interview witnesses. (A continuance means that your case will not be finished today but will be set for a later date).
3. To be given a full explanation of the charge against you.
4. To testify (tell the Court your side of the case) in your own behalf; you do not have to testify and if you choose not to testify, that fact cannot be considered in determining whether you are guilty or not guilty.
5. To cross-examine (ask questions of) all prosecution witnesses (such as police officers);
6. To present witnesses in your own behalf, (and have them subpoenaed by the Court). A subpoena is a Court Order requiring a witness to appear.
7. To have furnished you a list of prosecution witnesses prior to time of trial; (the witnesses against you, such as police officers).
8. To plead "Guilty", "Not Guilty", or "Nolo Contendere" to the offense with which you are charged and the right to be informed as to the legal effect of each. Any plea must be voluntary.

(a) Plea of "Guilty" - If you feel you have violated the ordinance in question, you may enter a plea of "Guilty" in which case an immediate hearing will be held by the Court. You must then make an oral statement concerning the offense. The Court will not accept your guilty plea unless your statement indicates that you really did commit the offense. You have the right to make a statement before sentence is imposed.

Since all convictions for traffic violations are reported to the State Motor Vehicle Division, if the sentence is not deferred this will result in some action with respect to your driver's license. In particular, points will be assessed against your driver's license. The Court has no control over any such action.

(b) Plea of "Not Guilty" - You have the right to a trial by the Court or to a trial by a jury to establish the facts. A date and time for trial will be set. If you have not already posted a bond, a bond may be required to guarantee your appearance at the trial. When your case comes to trial, the burden of proof rests with the City.

In other words, for you to be found guilty, each and every element of the charge must be proven beyond a reasonable doubt by the City.

(c) Plea of "Nolo Contendere" - Essentially, it is treated the same as a guilty plea. (Please read the comments above, where it says: 8. (a) plea of "Guilty"). It basically means that you didn't want to contest the charge.

(d) Disposition (what the Court does to you, such as fine or jail sentence) will then be made by the court and a penalty imposed. The maximum penalty which may be imposed for any violation in this court is \$1,000.00 or 90 days in jail or both. The penalty is designed to fit the offense, taking into consideration your previous record, if any. In addition to the fine, you will be required to pay \$50.00 in court costs imposed by the City Council, Victims Assistance \$20.00, Late Fee \$10.00, Warrant Fee \$30.00, Payment Plan Fee \$15.00, Fee to drop Charges \$10.00 and fee to mail notices \$10.00, a \$25.00 surcharge imposed by the City Council for police training and, except for prepaid and parking tickets, a second \$10.00 surcharge for support of the Monte Vista Emergency Food Bank. Information on the Food Bank will be provided to you by the Clerk.

(e) If you are a non-citizen and you are convicted of a firearm offense, a crime of domestic violence or an offense involving high-speed flight, it may drastically effect your non-citizen status.

9. To have a trial by jury if desired, by demanding such trial in writing within 20 days after arraignment or retry of plea and, within 20 days, paying a jury fee of twenty-five dollars (\$25.00), unless the fee is waived by the court because your are indigent (you cannot afford to pay the fee). The case will be tried by a jury of (3) people unless you request a greater number. However, in this Court, no jury may be more than 6 people.

10. If you plead Not Guilty and trial is to be held, you have the right to have all of your witnesses subpoenaed at no cost to you, to appear and testify at your trial. You may also simply bring your witnesses with you. However, if you do not have subpoenas issued and your witnesses do not show up, the trial will still be held on that date. To get subpoenas issued, you must give a list of names and addresses to the Court Clerk, at least 6 days before the trial date.

11. In any event, if you do not like the Court's decision or feel that you did not get a fair trial, you have the right to appeal this Court's decision to a court of higher jurisdiction. (Prescribed appeal procedure must be followed).

If you have any doubt, enter a "Not Guilty" Plea. If you are found Guilty, you will not be given a worse penalty just because you entered a plea of "Not Guilty". Please ask questions of the Court if you have any doubt. By signing this form, you are saying that you read it and understand it.

\_\_\_\_\_  
Signature of Defendant

Date: \_\_\_\_\_ Docket \_\_\_\_\_

\_\_\_\_\_  
Signature of Parent (if applicable)

Phone Number \_\_\_\_\_

**Mailing Address** \_\_\_\_\_

Charge 1) Guilty \_\_\_\_\_ Not Guilty \_\_\_\_\_ No Contest \_\_\_\_\_  
Requesting a deferred sentence (Judge approval only) \_\_\_\_\_

Charge 2) Guilty \_\_\_\_\_ Not Guilty \_\_\_\_\_ No Contest \_\_\_\_\_  
Requesting a deferred sentence (Judge approval only) \_\_\_\_\_