

<b>POULSBO MUNICIPAL COURT</b> <b>Kitsap County, Washington</b>	200 NE Moe St, Poulsbo, WA 98370 Phone # 360-779-9846 Fax # 360-779-1584
CITY OF POULSBO,  Plaintiff,  vs.  _____ Defendant.	Case #  <b>PETITION FOR DEFERRED PROSECUTION</b>

COMES NOW the defendant and petitions the court for deferred prosecution pursuant to RCW Chapter 10.05, and states as follows:

1. I allege the wrongful conduct charged is the result of or caused by  
 ALCOHOLISM       DRUG ADDICTION       MENTAL PROBLEMS  
for which I need treatment.
2. Unless I receive treatment for my problem, the probability of future reoccurrence is great.
3. I agree to pay for the cost of diagnosis and treatment, if financially able to do so, subject to RCW 10.05.130.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. If this charge is a violation of Title 46 or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 or similar municipal ordinance violation.
6. A case history and assessment have been filed with this petition pursuant to RCW 10.05.020.
7. I understand and acknowledge I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is proven beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I understand I give up my right to: (a) a speedy trial; (b) a jury; (c) testify; (d) question witnesses; (e) call witnesses; and (f) present evidence or a defense.
8. I stipulate to the admissibility and sufficiency of the facts in the attached police reports. I acknowledge that the above items will be entered and used to support a finding of guilty if the deferred prosecution is revoked.
9. If my deferred prosecution is revoked and I am found guilty, I understand that I may be sentenced up to the maximum penalty allowed by law.
10. I understand that if I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
11. I understand that for some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally

charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).

12. I understand that for some crimes, I will be disqualified from driving a commercial motor vehicle for the period specified in RCW 46.25.090. If I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition. RCW 46.25.030. If the court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490. I understand that if my wrongful conduct is the result of or caused by alcohol dependency, I shall be required to install an ignition interlock or other device on any motor vehicle I operate as set forth in RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720(2)(a), (b) and (c). I may also be required to pay restitution to victims, pay court costs and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all non prescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. An alcoholism program shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.
13. I understand that if the court grants this Petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington State. I understand that I will be required to pay an application fee with my travel or transfer request.
14. I understand that if I fail or neglect to comply with any part of my treatment plan or with any ignition interlock requirements, then the court will hold a hearing to determine whether I should be removed from the deferred prosecution program. After the hearing the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.
15. I understand that the charge(s) against me in this case will be dismissed three years from the end of the two-year treatment plan, but no less than five years from the date the deferred prosecution is granted, if the court grants my petition for deferred prosecution and if I fully comply with all the terms of the court order placing me on deferred prosecution.

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at \_\_\_\_\_, Washington this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner-Defendant

\_\_\_\_\_  
Defense Attorney

**POULSBO MUNICIPAL COURT  
Kitsap County, Washington**

200 NE Moe St, Poulsbo, WA 98370  
Phone # 360-779-9846 Fax # 360-779-1584

CITY OF POULSBO,  
  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_  
Defendant.

Case #  
**MOTION / REQUEST OF DEFENDANT FOR  
DEFERRED PROSECUTION AND ORDER  
PENDING ACCEPTANCE  
FOR DEFERRED PROSECUTION**

THIS MATTER having come on for hearing before the undersigned Judge of the above-entitled court upon the defendant's oral notice of his/her motion and request for acceptance into a deferred prosecution, and the court having considered the records and files herein and being fully advised in the premises:

**ORDERED, EFFECTIVE IMMEDIATELY:**

1. The defendant shall attend a minimum of two (2) 12-step self help group meetings (AA, NA, etc.) per week and provide written proof of such attendance to the court at each court hearing;
2. The defendant shall comply with all court orders.
3. The defendant shall abstain from consumption of alcohol or any other drug not prescribed by a physician;
4. The defendant shall not drive without a valid license, proof of insurance and ignition interlock  for personal use  photo ignition interlock  for employment/commercial use. Defendant shall provide proof of installation and download reports for ignition interlock to the court.

**ORDERED, THAT BEFORE THE NEXT COURT HEARING, THE DEFENDANT SHALL FILE PROOF OF THE FOLLOWING:**

1. The defendant shall attend a DUI Victim's Panel;
2. The defendant shall file a Petition for Deferred Prosecution and submit all documentation to the court at least seven days prior to the next court date;
3. The defendant shall complete evaluations as follows:  chemical dependency  
 Other \_\_\_\_\_  mental health evaluation

**YOUR FAILURE TO COMPLETELY SATISFY THE ABOVE REQUIREMENTS MAY RESULT IN DENIAL OF YOUR PETITION FOR DEFERRED PROSECUTION.**

- DOL STAY REQUESTED:** The defendant has a .08 breath test (or higher). Therefore, the Clerk is directed to furnish a copy of the extension of Temporary Driver's License/Administrative Stay to the Washington State Department of Licensing to request a stay of the administrative license suspension.

WARNING: There is no stay until and if ordered by DOL.

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
JUDGE

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Prosecutor

<b>POULSBO MUNICIPAL COURT</b> <b>Kitsap County, Washington</b>	200 NE Moe St, Poulsbo, WA 98370 Phone # 360-779-9846 Fax # 360-779-1584
CITY OF POULSBO,  Plaintiff,  vs.  _____ Defendant.	Case #  <b>NOTICE OF INSURANCE COVERAGE  FOR DEFERRED PROSECUTION</b>

This notice is to advise both the court and the plaintiff of the nature and extent of insurance coverage held by the above-named defendant who is petitioning for Deferred Prosecution in this court. This coverage is to show compliance with the requirements of RCW 10.05.140 and is included by reference, RCW 46.29.490.

NAME OF INSURED: \_\_\_\_\_

ADDRESS OF INSURED: \_\_\_\_\_

COVERAGE: Bodily injury/death to one person: \$ \_\_\_\_\_

Bodily injury/death to two or more persons: \$ \_\_\_\_\_

Injury to/destruction of property of others: \$ \_\_\_\_\_

PREMIUM: \_\_\_\_\_

POLICY PERIOD: \_\_\_\_\_

LIMITS OF LIABILITY: \_\_\_\_\_

Attached is an agreement or endorsement that insurance is provided under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

THE ABOVE INFORMATION IS GIVEN AS TRUE AND ACCURATE.

DATED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

PRESENTED BY:

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Defendant

<b>POULSBO MUNICIPAL COURT</b> <b>Kitsap County, Washington</b>	200 NE Moe St, Poulsbo, WA 98370 Phone # 360-779-9846 Fax # 360-779-1584
CITY OF POUSLBO,  Plaintiff,  vs.  _____ Defendant.	Case #  <b>DECLARATION OF NON-DRIVING  STATUS FOR DEFERRED  PROSECUTION</b>

I, \_\_\_\_\_, defendant/petitioner in this matter, say the following:

1. That I understand I am not authorized by this court to drive during this Deferred Prosecution without first obtaining the prior permission of this court which would include showing compliance with RCW 10.05.140 (re: valid operator's license, automobile insurance, ignition interlock and restitution if applicable) and the included reference RCW 46.29.490 (re: liability insurance).
2. That my failure to comply with the above requirements will constitute a violation of RCW 10.05.140.
3. I certify or declare that I have read the foregoing statement and certify under penalty of perjury under the laws of the State of Washington, that I understand it and that it is true and correct to the best of my knowledge and belief.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

<b>POULSBO MUNICIPAL COURT</b> <b>Kitsap County, Washington</b>	200 NE Moe St, Poulsbo, WA 98370 Phone # 360-779-9846 Fax # 360-779-1584
CITY OF POULSBO,  Plaintiff,  vs.  _____ Defendant/Petitioner	Case #  <b>ORDER APPROVING TREATMENT  PLAN, SETTING CONDITIONS AND  ACCEPTING DEFENDANT FOR  DEFERRED PROSECUTION</b>

THIS MATTER having come on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; the defendant, appearing in person represented by \_\_\_\_\_; the plaintiff being represented by the Kitsap County Prosecuting Attorneys' Office; it appearing that the petitioner herein has filed a petition requesting consideration for deferred prosecution of a misdemeanor or gross misdemeanor; that the petitioner has earlier been referred to an approved treatment program or center for diagnostic investigation for evaluation, and the facility report, including findings and recommendations and commitment to treat has been furnished to the court; that the petitioner having examined said report and plan and having indicated acceptance thereof, and being in agreement to follow said plan in detail; that the petitioner having signed the "Petition for Deferred Prosecution, Stipulation of Petitioner, and Waiver of Rights" forms; and the court being fully advised in the premises now, therefore, makes the following:

FINDINGS

- A. The petitioner, on or about \_\_\_\_\_, 20\_\_\_\_, was charged with the offense(s) of \_\_\_\_\_.
- B. The petitioner suffers from  ALCOHOLISM,  DRUG ADDICTION,  MENTAL PROBLEMS and, if not treated, there is a high probability that similar misconduct will occur in the future.
- C. The petitioner has completed an evaluation and received a diagnosis, which is attached.
- D. Extensive and long-term treatment is required and available, and the petitioner agrees to enroll in, complete, and pay the costs of the treatment plan, which is attached. The court has approved the plan.
- E. The petitioner has stipulated to the admissibility of the facts as contained in the written police reports.
- F. The petitioner has acknowledged the admissibility and sufficiency of the stipulated facts in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of the order granting deferred prosecution.
- G. The statements of the petitioner were made knowingly and voluntarily.
- H. The petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial.

II. ORDER

A. The deferred prosecution program for alcoholism or drug addiction shall be for a five-year term, with active treatment the first two years, and upon successful completion of treatment an additional three year probation period. The program requirements shall include, but not be limited to, all the recommendations contained in the evaluation, which is attached, and the following requirements:

- (1) Total abstinence from alcohol and all other non-prescribed mind-altering drugs;

(2) Participation in an intensive inpatient or intensive outpatient program in a state-approved alcoholism treatment program;

(3) Participation in a minimum of two meetings per week of an alcoholism self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;

(4) Participation in an alcoholism self-help recovery support group, as determined by the assessing agency, from the date of court approval of the plan to entry into intensive treatment;

(5) Not less than weekly approved outpatient counseling, group or individual, for a minimum of six months following the intensive phase of treatment;

(6) Not less than monthly outpatient contact, group or individual, for the remainder of the two-year deferred prosecution period;

(7) The decision to include the use of prescribed drugs, including disulfiram, as a condition of treatment shall be reserved to the treating facility and the petitioner's physician;

(8) All treatment within the purview of this section shall occur within or be approved by a state-approved alcoholism treatment program as described in chapter 70.96A RCW.

(9) Provide monthly treatment and completion reports to the Court.

B. A deferred prosecution for mental health problems shall be for a 5 year period, with active treatment for two years and probation for an additional three years and shall include all recommendations of the mental health evaluation.

C. The petitioner shall attend a DUI victims' panel within 60 days and provide proof to the court within 90 days.

D. The petitioner's compliance with this court order shall be monitored through Poulsbo Municipal Court. The period of this probation will be for the period of time required to complete the two (2) year program, and for an additional three (3) year period after completion of the program.

E. The petitioner shall abstain from the consumption of alcoholic beverages and all non-prescribed mind-altering drugs for the entire Deferred Prosecution period; and, further the defendant shall submit to a breath test, urinalysis, or blood test at the defendant's expense when requested by the court, the probation services staff, law enforcement officer or treatment staff.

F. The petitioner shall immediately notify the court about any changes in address, phone number and living location, any non-compliance or change in the attached treatment program, any violations of this order, and any criminal law violations or arrests.

G. The petitioner shall pay a \$825.00 probation fee, in the case of a criminal traffic offense, an additional \$200.00 DUI fee as required by the State of Washington together with any previously assessed cost. These fees and costs shall be paid at:

\$75 per month beginning one month from today's date

\$ \_\_\_\_\_ per month beginning \_\_\_\_\_

H. The petitioner shall not commit any violations of criminal laws.

I. The petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall not be less than that established by RCW 46.29.490. The petitioner shall file written proof of liability insurance at the time of the signing of this order, and in the absence of such written proof, the petitioner shall not operate any motor vehicle. If not driving the petitioner shall file a Declaration of Non-Driving Status. If not driving, the petitioner shall file a Declaration of Non-Driving Status and notify the court if driving status changes.

J. Effective immediately, the petitioner shall apply for an ignition interlock driver's license from the Department of Licensing under RCW 46.20.385 and have installed a functioning ignition interlock device calibrated at 0.025 on all motor vehicles operated by the petitioner unless the requirement is waived by the DOL pursuant to statute. If Ignition Interlock is required the defendant shall provide proof of installation and download reports to the court.

If Ignition Interlock is required the defendant shall install a Photo Ignition Interlock.

K. In the event the petitioner has not given the court a complete and accurate account of all alcohol related driving arrests and dispositions, including deferred prosecution or in-house deferred, or injuries or death resulting from any alcohol or drug driving related arrest, a hearing may be held to determine why the petitioner

should not be removed from deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charges.

L. In the event the petitioner should fail or neglect to carry out or fulfill the terms and conditions of this order or the attached treatment program, a hearing shall be held to determine why the petitioner should not be removed from deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charges pursuant to RCW 10.05.

M. The court clerk shall notify the Department of Licensing of this order accepting the defendant for deferred prosecution.

N. Upon written proof of successful completion with all the terms of the court order and treatment plan, the clerk shall note this matter on the calendar for dismissal which shall be 36 months after filing proof of the completion of treatment.

O. Defendant shall:

- Pay emergency response restitution as ordered
- Pay restitution in the amount of \$ \_\_\_\_\_ to \_\_\_\_\_ by \_\_\_\_\_, 20\_\_\_\_,  through the court  directly to the victim and provide proof to the court.

P. The defendant shall personally appear in court for review of this matter on the dates and times as indicated. In the event defendant is in full compliance, if defendant fails to appear, the court may enter an order of dismissal. However, the burden is on defendant to ensure full compliance.

Q. Other \_\_\_\_\_

**It is ordered that the Defendant shall appear before the Court on the following dates:**

- 6 month review date: \_\_\_\_\_ at \_\_\_\_\_
- 23 month review date: \_\_\_\_\_ at \_\_\_\_\_
- 60 month review date: \_\_\_\_\_ at \_\_\_\_\_

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
JUDGE

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Dated

I certify that a copy of this Order was mailed to \_\_\_\_\_, the chemical dependency/mental health treatment agency, on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Clerk