

PORT ORCHARD MUNICIPAL COURT STATE OF WASHINGTON	216 Prospect Street Port Orchard, WA 98366 (360) 876-1701
CITY OF PORT ORCHARD, Plaintiff, vs. _____ Defendant.	NO. ORDER APPROVING TREATMENT PLAN, SETTING CONDITIONS AND ACCEPTING DEFENDANT FOR DEFERRED PROSECUTION

This matter having come on for hearing on the ____ day of _____ 20____; the defendant, appearing in person represented by attorney _____; the plaintiff being represented by the Port Orchard City Prosecutor; it appearing that the defendant herein has filed a petition requesting consideration for deferred prosecution of a misdemeanor or gross misdemeanor; that the defendant has earlier been referred to an approved treatment program for diagnosis and evaluation, and the program's report including diagnosis, treatment recommendations and agreement to treat has been furnished to the Court; that the defendant having examined said report and plan and having indicated acceptance thereof, and being in agreement to follow said plan in detail; that the defendant 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:

I. FINDINGS

- A. The defendant, on or about _____, _____, was charged with the offense(s) of _____.
- B. The defendant 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 defendant has completed an evaluation and received a diagnosis, which is attached.
- D. Extensive and long-term treatment is required and available and the defendant agrees to comply with the terms and conditions of the treatment plan and to pay the costs thereof.
- E. The defendant has stipulated to the admissibility of the facts as contained in the written police reports.
- F. The defendant 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 defendant's statements were made knowingly and voluntarily.
- H. The defendant 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 shall be for a two-year period and 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.
- B. A deferred prosecution for mental health problems shall be for a 2-year period and shall include all recommendations of the mental health evaluation.
- C. The defendant shall attend a court-approved DUI Victim's Panel.
- D. The defendant has been accepted for treatment at/by _____, a state-approved treatment program, and proof is attached herein. There shall be no change of treatment provider without the advance approval of the Court.
- E. The defendant is responsible for ensuring that proof of continuing treatment and a statement of progress is submitted monthly for the entire period of the two (2) year treatment program.
- F. The defendant's compliance with this Court order will be monitored through the Port Orchard Municipal Court, 216 Prospect Street, Port Orchard, WA 98366, (360) 876-1701. 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.
- G. The defendant shall abstain from the consumption of alcoholic beverages and/or mind/mood altering drugs unless prescribed by a physician; and, further the defendant shall submit to a breath test, urinalysis, or blood test at the defendant's expense when requested by the Court, law enforcement officer, or treatment staff.
- H. The defendant 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; and any criminal law violations or arrests.
- I. The defendant agrees to pay the Court a \$750.00 probation monitoring fee, \$250.00 administrative cost, and in the case of a criminal traffic offense an additional \$200.00 DUI/DP Account Fee, as required by the State of Washington, together with any previously assessed cost. If the defendant is unable to pay in full at the time of acceptance, a time pay agreement may be requested. The defendant will be allowed to sign a time pay agreement to pay \$75 per month due by the 5th of each month beginning the month following acceptance of the Deferred Prosecution. The balance must be paid in full within 24 months.
- J. The defendant shall not commit any violations of criminal laws.
- K. The defendant 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 defendant 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 defendant shall not operate any motor vehicle.
- L. Effective immediately the defendant shall have a functioning ignition interlock device calibrated at 0.025 installed on all motor vehicles operated by the defendant unless the requirement is waived by the DOL pursuant to statute pursuant to RCW 10.05.140, RCW 46.20.720.
- M. In the event the defendant has not given the Court a complete and accurate account of all his/her alcohol related driving arrest(s) and dispositions, including deferred prosecution or in-house deferred, or injuries or death resulting from any alcohol/drug driving related arrest(s), a

hearing shall be held to determine why the defendant should not be removed from deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charge(s).

- N. In the event the defendant should fail or neglect to carry out or fulfill the terms and/or conditions of this Order or the attached treatment program, a hearing shall be held to determine why the defendant should not be removed from deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charge(s) pursuant to RCW 10.05. The agreed Court guidelines, "Uniform Policy: Deferred Prosecution Termination/Revocation," for determining revocation are available.
- O. The Court clerk will notify the Department of Licensing of this Order accepting the defendant for deferred prosecution.
- P. Upon written proof of successful completion with all the terms of the Court order and three (3) years after the two (2) year treatment plan is successfully completed, the defendant may request the charge against him/her in this case be dismissed.
- Q. The defendant shall:
 - Pay emergency response restitution as ordered
 - Pay other restitution as ordered
 - _____
- R. The defendant will personally appear in Court for review of this matter on the dates and times as indicated on the Order of Release entered herein. 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.

DONE IN OPEN COURT this _____ day of _____ 20_____.

JUDGE

I have received a copy of this Order, read it and understand its contents, and agree to abide by its terms and conditions.

Defendant

Dated

Attorney for Defendant

Dated

City Prosecuting Attorney

Dated

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

Clerk