

**IN THE MUNICIPAL COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS
CITY OF MOLALLA**

State of Oregon

Case No: _____

v.

**PETITION TO PLEAD
GUILTY OR NO CONTEST**

Defendant

DUII Diversion

1. My true name is (*first, middle, last*) _____

I also am known as _____

2. I am _____ years old. The highest grade level of school I have completed is _____

3. My physical and mental health are satisfactory. I am not under the influence of any drugs or intoxicants, except

4. The following statement best describes me:

- I am able to read, write, and understand English, and I have read this petition completely
- I am able to understand English, and this petition has been read aloud to me completely
- I am unable to read English, and this petition has been read aloud to me completely in English
- I am unable to read, write, or understand English, and this petition has been read aloud to me in the _____ language by _____, who is qualified to translate English into the _____ language.

5. I am am not represented by a lawyer. I understand that I have the right to hire a lawyer or have the court appoint a lawyer to represent me if the court finds that I cannot afford to hire a lawyer.

I choose to give up my right to a lawyer. I will represent myself (_____) [initials here]

6. If represented by a lawyer, I have told my lawyer all the facts I know about the charge against me. My lawyer has advised me of the nature of the charge and the defenses, if any, that I have in this case. I am satisfied with the advice and help my lawyer has given me.

7. I understand that I have the following rights: a) the right to jury trial; b) the right to confront and question all witnesses who testify against me at trial; c) the right to remain silent about all facts of the case; d) the right to subpoena witnesses and evidence in my favor; e) the right to have my lawyer assist me at trial; f) the right to testify at trial; g) the right to have the jury told, if I decided not to testify at trial, that they cannot hold that decision against me; and h) the right to require the prosecutor to prove my guilt beyond a reasonable doubt.

8. I understand that I give up all of the rights listed in paragraph 7 when I plead guilty or no contest. I understand I give up: a) any defenses I may have to the charge; b) objections to evidence; and c) challenges to the accusatory instrument.

9. By this petition, I am pleading guilty no contest to the crime of driving under the influence of intoxicants (DUII) which is a Class A misdemeanor under Oregon law. The maximum penalties, applicable if I do not enter diversion or if I fail to comply with the conditions of diversion are 364 days in jail and a fine of \$6,250 or \$10,000 if the offense was committed in a motor vehicle and there was a passenger younger than 18 and at least three years younger than me. The minimum penalties are 48 hours of imprisonment or 80 hours of community service and a fine of:

- \$1,000 if this is my first conviction

- \$1,500 if this is my second conviction
- \$2,000 if this is my third conviction and I am not sentenced to a term of imprisonment
- \$2,000 if my blood alcohol level (BAC) was 0.15 percent or greater

If I do not enter diversion or if I fail to comply with the conditions of diversion, there will be a mandatory suspension of my driving privileges for:

- 1 year if this is my first conviction
- 3 years if this is my second conviction within 5 years
- my lifetime if this is my third or subsequent conviction

10. I understand that if I am not a U.S. citizen, this plea may result in my removal from this country, exclusion from admission to the United States, or denial of naturalization.
11. I understand that I will be required to pay all of the fees listed in the *Summary of DUII Diversion Fees*, unless the court finds me unable to pay and waives all or part of these fees. These fees include an alcohol or drug abuse assessment and any recommended treatment. The court may order me to attend a victim impact panel and pay a participation fee. I may be required to reimburse the state for the cost, if any, of a court-appointed attorney.
12. I am submitting this plea along with a petition to enter the diversion program under ORS 813.200 to 813.270. I understand that if the court grants the petition, the court will accept this plea but will not enter a judgment of conviction at this time.
13. I understand that:
 - a. If I fully comply with the conditions of the diversion agreement within the period authorized by law and by the court, the court will dismiss the charge with prejudice under ORS 813.250. If the court does not have a policy of automatically dismissing the DUII charge at the end of one year, I will have to file a motion at the end of the diversion period requesting that the charge be dismissed.
 - b. If I fail to comply with the diversion agreement within the diversion period, the court will enter a judgment of conviction on the charge and will sentence me
14. I understand that if the court enters judgment on this plea for failing to comply with the diversion agreement, it is the same as a conviction. This court can find me guilty of the crime of DUII based on this plea alone, without receiving any evidence.
15. I understand that if the court denies the diversion petition and I go to trial, nothing in this petition will be used against me
16. This plea is based only on what is written on this petition. No promises have been made to me by my lawyer or any officer or agent of any branch of government (federal, state, or local) that I will receive a particular sentence or form of treatment from this or any other court, on these or any other charges, other than what is set forth in this petition.
17. I plead no contest *or*
 I plead guilty because in Clackamas County, Oregon, I did the following:

18. I am am not currently on probation, parole, or post-prison supervision. I know that if I am and the court enters judgment on this plea, my failure to comply with the conditions of the diversion agreement may cause my probation, parole, or post-prison supervision to be revoked and I may be required to serve jail or prison time in that case in addition to any sentence imposed in this case.
19. I understand the charge against me and the information in this petition. I am signing this petition and entering this plea voluntarily, intelligently, and knowingly.
20. I understand that if I fail to comply with the terms of the diversion and the court enters a judgment of conviction, I have the right to appeal the conviction. My right to an appeal will be explained to me when the court enters the judgment of conviction.

Defendant's Signature

Defendant's Name (printed)

Date

CERTIFICATE OF COUNSEL

I am the attorney for the defendant in this proceeding and I certify that:

- 1. I have fully explained to my client the charge and possible defenses that may apply in this case
- 2. I have personally examined this plea petition, explained all of its provisions to my client, and discussed fully with my client all matters described and referred to in the petition
- 3. I have explained to my client the maximum penalty and other consequences of entering a guilty or no contest plea, including possible immigration consequences
- 4. To the best of my knowledge and belief, my client’s decision to enter this plea is made voluntarily, intelligently, and knowingly
- 5. I have told my client that if he or she is eligible for court-appointed counsel and wishes to pursue an appeal, I will transmit the information necessary to perfect the appeal to the Office of Public Defense Services

Signed by me in the presence of the above-named defendant/petitioner and after full discussion of the contents of the certificate with the defendant on *(date)* _____

Defendant’s Attorney’s Signature

Attorney Name (typed or printed)

Bar Number

CERTIFICATE OF INTERPRETER

I, the undersigned interpreter, certify that I have read aloud the petition to the above defendant in the _____ language

Signed by me in the presence of the above-named defendant on *(date)* _____

Interpreter’s Signature

Interpreter Name (printed)