

**ORDINANCE NO. 10132014A**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELBA**, that Section 22-12 in the Code of Ordinances, City of Elba, Alabama, is hereby amended as follows:

**Sec. 22-12. Deferred prosecution program.**

- (c) Any person charged with a crime or violation where the jurisdiction of the municipal court is proper may apply for admittance to the program subject to the following limitations and conditions:
  - (1) Deferred prosecution shall be available only one time for the same or similar offense. Deferred prosecution will not be available if the applicant has any prior alcohol, drug or domestic violence conviction or youthful offender adjudication from any jurisdiction. Deferred prosecution shall not be available for a holder of a commercial driver's license, an operator of a commercial motor vehicle, or a commercial driver learner permit holder who is charged with a violation of a traffic law in this state.
- (f) Prior to being admitted to the program or as part of the prosecutor's evaluation process, an applicant may be required to furnish information concerning any past treatment or care received, psychological tests taken, and any other information concerning the applicant which the prosecutor believes has bearing on the decision as to whether or not the applicant should be admitted to the program.
- (g) An applicant who enters the program shall satisfy each of the following requirements:
  - (5) The applicant must enter a plea of guilty to and may be ordered to pay the court costs for the charge(s) for which deferred prosecution is sought. The guilty plea(s) shall be submitted to the judge who shall withhold final adjudication until the applicant successfully completes the program or is terminated from the program.
- (h)
  - (1) An applicant may be assessed a fee when the applicant is approved for the program. The amount of the assessment for participation in the program shall be in addition to any court costs and assessments for victims of drug, alcohol, or anger management treatment required by law, and are in addition to costs of supervision, treatment, and restitution for which the person may be responsible. An applicant may not be denied access into the program based solely on his or her inability to pay. Program fees as established by this act may be waived or reduced for just cause, including indigency of the applicant, at the discretion of the judge. Any determination of indigency of the applicant for the purposes of deferred prosecution fee waiver or reduction shall be made by the judge. A schedule of payments for any of these fees may be established by the prosecutor.
  - (2) The following fees shall be applied to applicants accepted into the program:
    - a. DUI offenses, up to \$5,000.00.
    - b. Domestic violence offenses, up to \$1,000.00.
    - c. Other misdemeanor offenses, up to \$1,000.00.
    - d. Traffic offenses, excluding DUI, up to \$500.00.
    - e. Violations, up to \$250.00.
- (j)
  - (1) If the participant violates the conditions of the program as agreed to in writing, the

prosecutor may terminate his or her participation. The participant shall be given written notice of the intent of the prosecutor to terminate him or her from the program, including the reason for the termination. In the event a participant is terminated from the program, the court shall adjudge him or her guilty of the offense(s) for which he/she entered the program and impose sentence accordingly.


- (1) At such time that a participant successfully completes the program and has adhered to all of its terms, the prosecutor shall recommend final disposition of the participant's case(s). The judge shall consider the prosecutor's recommendation, and upon being satisfied that the participant has successfully completed the program and adhered to all of its terms, the judge may terminate the the participant from the program and dismiss the charge(s) for which the participant entered the the program.

ADOPTED this 13<sup>th</sup> day of OCTOBER, 2014.

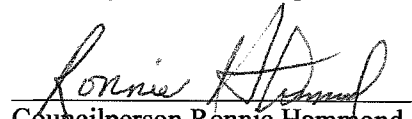
  
Councilperson Rolanda P. Jones

Councilperson Tommy Skinner

  
Mayor Mickey L. Murdock

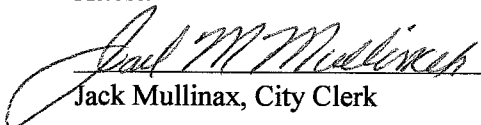
  
Councilperson Jane B. Brunson

  
Councilperson Harold Spicer

  
Councilperson Ronnie Hammond

(SEAL)

Attest:

  
Jack Mullinax, City Clerk