ALCOHOL/MARIJUANA DIVERSION PROGRAM
CITY OF MANHATTAN, KANSAS
Revised November 1, 2008
Revised July 1, 2010
Revised October 18, 2010
Revised July 1, 2011
Revised February 1, 2012, December 27, 2013 and July 1, 2014

The City Prosecutor has adopted the following guidelines and procedures as an alternative to normal prosecution of driving under the influence of alcohol, possession of marijuana and possession of drug paraphernalia. Participating in this program is completely voluntary and depends on you meeting the qualification listed below and agreeing to the terms of the diversion agreement. It is in the City Prosecutor's discretion whether or not to grant a diversion. If you enter into and successfully complete the diversion program, the City will dismiss the charges against you, pursuant to KSA 12-4418. The basic qualifications for entry into the diversion program are that:

1) You must not previously have participated in a diversion program for driving under the influence or previously have been found guilty of driving under the influence of alcohol.
2) You also must not have been involved in a motor vehicle accident or collision resulting in personal injury or death at the time of the offense.
3) You must not previously have participated in a diversion program for possession of marijuana or possession of drug paraphernalia or have been found guilty of possession of marijuana or possession of drug paraphernalia.
4) You must not have a commercial drivers' license. Having a commercial drivers' license will disqualify you from getting a diversion even if you were not driving a commercial vehicle at the time of the offense.

If you meet the qualifications listed above and are willing to abide by the terms of the diversion agreement, you need to complete the application for diversion which is attached, and you or your attorney must submit it to the prosecutor AT LEAST ONE WEEK PRIOR TO THE DATE SET FOR THE DIVERSION CONFERENCE. FAILURE TO SUBMIT THE APPLICATION ON TIME AUTOMATICALLY DISQUALIFIES YOU FROM PARTICIPATING IN THE DIVERSION PROGRAM. The prosecutor will consider your application along with other factors authorized by the State of Kansas. In deciding whether to apply for diversion, you should be aware of the following:

1) If you fail to comply with the terms of diversion, you will be prosecuted for the DUI and possession or marijuana and/or possession of drug paraphernalia and any payments made or community service performed under the diversion agreement will be forfeited.
2) Although successful completion of the diversion agreement will result in dismissal of the DUI charge, the state will maintain a record of the fact that you have participated in the diversion program and you will not be eligible for diversion a second time.

3) If you are convicted of another DUI in the future, the fact that you have participated in this diversion program will be considered by the court and will result in an increased sentence.
4) If you are convicted of another marijuana and/or paraphernalia possession offense in the future, the fact that you have participated in this diversion program will be considered by the court and may result in an increased sentence.
5) If you participate in this diversion program, you will be required to (a) waive all rights under the law or constitution to a speedy arraignment, speedy trial, and the right to jury trial; (b) enter into a stipulation with the city prosecutor of the facts upon which the charge is based; and (c) agree that if you fail to fulfill the terms of the diversion agreement and the proceedings on the complain are resumed, the proceedings, including any proceedings on appeal, shall be conducted exclusively on the record of the stipulation of the facts relating to the complaint.
6) The diversion agreement must include a requirement that you pay cost of at least $1,624.00 to $2,324.00. This includes court costs and ADSAP fees.
7) Perform between 20 to 160 hours of community service.
8) The diversion agreement must also include a provision that requires that you enroll in and successfully complete an alcohol and drug safety action program. The fees for which are included in the diversion cost.
9) You stipulate that the substance is marijuana. If the substance must be tested, defendant is not eligible for diversion and is responsible for the $400.00 KBI lab fee if convicted.

APPLICATION FOR DIVERSION

Fill out this form completely. If a question is not applicable, please indicate that in the space provided. Failure to fill out this form completely may result in a denial of your diversion agreement.

1. Name_____ Age_____ SSN_____
   Address_____ Phone_____
   City_____ State_____ Zip_____

2. How long have you lived there? _____

3. Where did you live before that?_____

4. If address above is not in the Manhattan-Ft. Riley area, why were you in Manhattan? at the time of the offense? _____

5. If address above is in the Manhattan-Ft.Riley area, will you be leaving the area in the next six months? _____ If so, when? _____
   Where will you be going to?_____

6. If married, give spouse's name: _____ age: _____
   address: _____

7. List any dependants _____

8. List your drivers license number, the state, and expiration date:_____
   Is this a commercial driver's license? _____

9. List above information for any other state you have or have had a drivers license and date of the licenses: _____

10. Where do you work and what is your position there? _____
    _____

11. When did you start working there?_____

12. What job did you have before your present one? _____

13. How long did you work there and why did you leave? _____
    _____

14. How much schooling have you completed? _____

15. If you are enrolled in college or post-secondary education at this time, list where: __
    _____

16. What are you studying (i.e. what is your major or intended major)? _____
    _____

17. Are you in good standing with the school? _____ Grade point average: _____

18. List any previous psychiatric, psychological, or alcohol treatment you have ever received and when you received it:_____
    _____

19. Have you ever been granted a diversion in any court for any offense? _____
    If so, what offense, what date and what court?
    _____

20. List all offenses of which you have been convicted. Include <u>all</u> juvenile and traffic cases as well as felony and misdemeanor convictions. Also, list any charges you have pending in any court:

Offense	Date	Which Court

21. Were you involved in an automobile accident at the time of the alleged driving under the influence? _____ If so, was anyone injured? _____
Did you have liability insurance at the time of the accident? _____

22. Explain why you should be allowed to participate in a diversion program. Include any special circumstances or characteristics, any mitigating circumstances, and anything that will assist the prosecutor in determining whether diversion is appropriate in your case. _____
_____
_____
_____
_____
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_____
_____
_____
_____
_____
_____

(attach a separate sheet if you require more space)

STATE OF KANSAS)
)ss:
COUNTY OF RILEY)

COMES NOW _____, and being duly sworn upon oath states:

I have read the above and foregoing Application for Diversion, and all the information therein contained is true and correct. I understand that if any of the foregoing information is not true, correct, and complete, this may be a basis for denial of diversion or revocation of diversion and may subject me to other criminal penalties.

_____ _____
Date Signature of Defendant

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20 ___.

_____
Notary Public

Approved by:

_____
Attorney for Defendant, if applicable