

# CITY OF MCLOUTH, KANSAS

## MISDEMEANOR DIVERSION PROGRAM

As an alternative disposition of a pending misdemeanor charge(s), the office of the City Prosecutor of the City of McLouth, Kansas offers a diversion program. Diversion is a referral of a defendant in a criminal misdemeanor case to a supervised performance program prior to and in lieu of conviction or acquittal. In simple terms, diversion allows an individual to resolve an offense without a conviction, although in certain cases, a diversion will be considered a conviction should a second offense occur. If an individual successfully completes the terms and conditions of a diversion agreement, then the pending charge or charges will be dismissed, with prejudice, at the end of the diversion term. If, however, an individual should violate any of the terms and conditions of the agreement, then the agreement may be revoked, and the original charge or charges reinstated for full and complete prosecution. Even if an individual participates in diversion, the State of Kansas, Department of Revenue, Division of Vehicles may revoke, suspend, or restrict driving privileges.

**PURPOSE:** The Misdemeanor Diversion Program is designed to address Class A, B, and C Misdemeanors, as well as unclassified misdemeanors. We believe that by providing this rehabilitative legal opportunity for handling carefully selected misdemeanor offenses, the offenders can become better citizens without sacrificing public safety or the general well-being of the community while making the most efficient use of limited judicial resources.

### **ACCEPTANCE IN THE Misdemeanor Diversion Program IS A PRIVILEGE NOT A RIGHT.**

**ELIGIBILITY:** The City Prosecutor has the discretion to grant or deny participation in the Misdemeanor Diversion Program. The City Prosecutor will place a higher priority on the need to ensure public safety rather than the desires of the individual offender. No presumption in favor of diversion exists in any case. It is presumed that *diversion is not appropriate in the following circumstances:*

- ❖ The Applicant has previously participated in a non-traffic diversion program in any city or state within the preceding 24 months.
- ❖ The current offense is a person crime, i.e. a crime committed against an individual's person, or a sex crime.
- ❖ The current Complaint was issued as a result of a motor vehicle accident.
- ❖ The Applicant has a prior felony conviction.

If the complaint alleges an alcohol related offense, the defendant is only eligible for diversion if he or she has NOT:

- ❖ Previously participated in a diversion of an alcohol related offense.
- ❖ Previously been convicted of or pleaded nolo contendere to an alcohol related offense.
- ❖ Previously been convicted of driving under the influence.

**FEE, FINES, AND COSTS:**

- ❖ A \$50.00 non-refundable Misdemeanor Diversion Application Fee, ***made payable to the Law Office of Carol Ruth Bonebrake, PA.***
- ❖ Diversion Fees:
  - Class A Misdemeanors -- \$1,000.00 fee
  - Class B Misdemeanors -- \$750.00 fee
  - Class C Misdemeanors -- \$500.00 fee
  - Unclassified Misdemeanors -- \$500.00 fee
- ❖ Court costs as approved by the Municipal Court.
- ❖ Costs associated with criminal records requests.
- ❖ Fees, fines, and costs must be paid by electronic funds transfer, cash, check, or money order. All fines/fees/costs (not including the application fee) are to be **made payable to the City of McLouth.**
- ❖ Payment arrangements may be made with the City Prosecutor, HOWEVER, **ALL** fees, fines, and costs must be made within 90 days of the commencement of this diversion program.
- ❖ If a payment is made with an insufficient funds personal check, an additional \$30.00 fee will be assessed and no personal checks will be accepted thereafter.

**MAIL ALL PAYMENTS AND DIRECT ALL CORRESPONDENCE TO:**

**Law Office of Carol Ruth Bonebrake, PA  
107 SW 6<sup>th</sup>, Suite 210  
Topeka, Kansas 66603**

**Other contact may be made as follows:**

**Phone: 785-234-4661  
Fax: 785-234-4630  
[jenny@crblawtopeka.com](mailto:jenny@crblawtopeka.com)**

**CITY OF MCLOUTH, KANSAS**  
**MISDEMEANOR DIVERSION APPLICATION**  
**AND**  
**AGREEMENT**

***The non-refundable Misdemeanor Diversion Application fee is \$50.00. Payment must be made to The Law Office of Carol Ruth Bonebrake, PA either by electronic funds transfer, check, or money order.***

**PLEASE PRINT:**

Ticket Number \_\_\_\_\_ Date Received \_\_\_\_\_ Court Date \_\_\_\_\_

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_

List Aliases/ Maiden Names \_\_\_\_\_

Current Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ Email \_\_\_\_\_

Phone (home) \_\_\_\_\_ (work) \_\_\_\_\_ (cell) \_\_\_\_\_

List prior addresses for the past three years, if different from above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security Number \_\_\_\_\_ Date of Birth \_\_\_\_\_ Sex \_\_\_\_\_

Race \_\_\_\_\_

If married, list Spouse's Full Name and Date of Birth \_\_\_\_\_

Driver's License Number \_\_\_\_\_ State \_\_\_\_\_

Insurance Company Name \_\_\_\_\_

Policy Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Current Employer \_\_\_\_\_

Employer Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_ Work Hours \_\_\_\_\_

**CRIMINAL RECORD**

List ALL prior or pending offenses, including criminal, traffic and juvenile. Include ALL arrests and convictions, even if expunged. Also, list any other diversion programs you have previously participated in. (ATTACH ADDITIONAL PAGES IF NECESSARY.)

Date	Offense	Location	Disposition	Parole/Probation Officer

**Prior or Current Diversions:** Are you currently subject to a diversion agreement from another city or county? Yes: \_\_\_\_\_ No: \_\_\_\_\_ If "Yes," please explain:

**Address Change:** I understand that it is my responsibility to keep the City Prosecutor and Municipal Court Clerk informed of my current address, telephone numbers, and employment. By submitting this application for diversion I agree to accept service of Municipal Court Notices, other Court documents, and correspondence from the City Prosecutor by U S mail at my last known address.

❖ I agree that if I fail to provide the information requested in this Application for Misdemeanor Diversion or if I give false or incorrect information my application may be denied and/or my Diversion may be terminated. I declare under penalty of perjury that the information in this Application for Misdemeanor Diversion is true and correct.

❖ I understand that if my Application for Misdemeanor Diversion is accepted, I waive all rights under the law or the constitution of Kansas or of the United States to counsel, a speedy arraignment, a speedy trial, and the right to trial by jury. I understand that I have the right to consult with an attorney and that the City Prosecutor, Municipal Court Judge, and Municipal Court Clerk cannot give me legal advice.

❖ I further understand that by signing this Application for Misdemeanor Diversion I am admitting that I committed the offense(s) alleged in the Uniform Notice to Appear and Complaint.

❖ I request that my Application for Misdemeanor Diversion be approved. I have paid the \$50.00 nonrefundable application fee.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE:** If you have not received formal notice from the City Prosecutor that your Application for Misdemeanor Diversion has been approved, you must appear at Municipal Court in McLouth, Kansas at the date and time stated on your Uniform Notice to Appear and Complaint. If you fail to appear, the Municipal Court Judge may order the **suspension of your license** and/or that a **bench warrant be issued for your arrest**.

*The Application for Misdemeanor Diversion is Approved \_\_\_\_\_ Denied \_\_\_\_\_ by the City Prosecutor or Assistant City Prosecutor.*

\_\_\_\_\_  
*Carol Ruth Bonebrake, City Prosecutor*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Jennifer Conkling Bazin, Assistant City Prosecutor*

\_\_\_\_\_  
*Date*

### Misdemeanor Diversion Terms

I \_\_\_\_\_, understand that if my Application for Misdemeanor Diversion is approved I agree to the following Diversion terms:

1. The Misdemeanor Diversion Program shall last for a period of 24 months;
2. I SHALL not violate the laws of the State of Kansas, the City of McLouth, or any other city in the State of Kansas during my diversion period;
3. DUI Diversions - In addition to the diversion fee, an individual must successfully complete and pay for an Alcohol Evaluation and all recommended education or treatment programs at a certified community based alcohol and drug safety action program.

Other Diversions - In addition to the diversion fee, an individual may be required to successfully complete and pay for an Alcohol/ Drug/ Domestic Violence Evaluation and all recommended education or treatment programs, pay restitution, participate in community service, and any other special terms as directed by the office of the City Prosecutor.

4. I SHALL pay the fine shown on the Uniform Notice to Appear and Complaint;
5. I SHALL pay the diversion fee; and
6. I SHALL pay the court costs which are \$54.00.
7. I SHALL pay the costs associated with criminal records requests.

❖ I agree that the total amount of fines and costs I must pay is as follows:

<b>Fine</b>	\$ _____
<b>Diversion Fee</b>	\$ _____
<b>Court Costs</b>	<b>\$ 54.00</b>
<b>Records Costs</b>	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

❖ I agree that if I do not complete each and every requirement of this Misdemeanor Diversion Agreement, as stated above, the Agreement may be terminated. I further agree that if I do not appear for hearing on a motion to terminate my Misdemeanor Diversion Agreement (after I have been notified by first class mail to my last known address), my failure to appear shall be sufficient grounds for the Court: (1) to grant the motion to terminate in my absence; (2) to enter a conviction pursuant to my prior plea of guilty or no contest; (3) to enter a conviction pursuant to my admission that I committed the misdemeanor offense set forth in the Uniform Notice to Appear and Complaint; and (4) to issue a bench warrant for my arrest.

❖ I understand that if I fail to complete the terms of this Misdemeanor Diversion Agreement, and the Agreement is terminated, that I will be prosecuted on the original complaint.

❖ I understand that if I DO complete each and every requirement of this Misdemeanor Diversion Agreement, as stated above, that the City Prosecutor will dismiss the Complaint and the case cannot be re-filed.

**This Misdemeanor Diversion Agreement is entered by and between the Defendant and the City Prosecutor. The diversion term begins upon signing by the City Prosecutor. A copy will be sent to the Defendant by first class mail to the address stated above.**

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Offender

Date

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Carol Ruth Bonebrake, City Prosecutor

Date

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Jennifer Conkling Bazin, Assistant City Prosecutor

Date