

CITY OF MCLOUTH, KANSAS

DRIVING UNDER THE INFLUENCE OF ALCOHOL DIVERSION PROGRAM

As an alternative disposition of a pending prosecution The City of McLouth has established a Diversion Program for offenders charged with Driving Under the Influence of Alcohol (DUI). Diversion is a privilege and not a right. There is no presumption in favor of Diversion in any case. The burden of persuasion falls upon the offender to establish that a DUI Diversion Program will serve the ends of justice, protect the public, and serve the interests of the community.

The DUI Diversion Program is a referral of an offender charged with DUI to a Supervised Performance Program before 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 you successfully complete the Diversion Program, the City Prosecutor shall request that the Municipal Court Judge dismiss the charges with prejudice. This means that the charges cannot be refilled.

If you violate any of the terms and conditions of the Diversion Program, then the agreement may be terminated, 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 City of McLouth is committed to public safety. By providing this rehabilitative legal opportunity for handling carefully selected DUI cases, the offender has the opportunity to become a better citizen 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 DUI DIVERSION PROGRAM IS A PRIVILEGE NOT A RIGHT.

ELIGIBILITY: The City Prosecutor has the discretion to grant or deny participation in the DUI 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

Offenders charged with DUI may be eligible for the Diversion Program, **except:**

1. An offender who has been convicted of or entered a plea of no contest to a DUI (or driving while intoxicated), even if the conviction has been expunged.

2. An offender who has previously participated in a DUI diversion program in any city or state.
3. Where the charged offense includes personal injury or death of another.
4. When the current Complaint was issued as a result of a motor vehicle accident.
5. When the offender's driver's license has been revoked, suspended, or restricted at the time of the DUI offense.
6. When the DUI was charged while the offender was driving with a Commercial Driver's License.
7. When an offender is on probation or parole for any other offense(s).
8. When the offender does not possess a valid driver's license or is an illegal alien.

CONSIDERATIONS: The City Prosecutor may consider the following factors in determining whether diversion is in the best interests of justice and will be of benefit to the offender and the community. The City Prosecutor will place a higher priority on the need to ensure public safety rather than the desires of the individual offender.

1. Level of blood or breath alcohol concentration
2. Circumstances surrounding the offense(s)
3. Whether the offender had liability insurance in force at the time of the offense
4. The offender's prior record (if any) and any special characteristics or circumstances unique to the offender
5. Recommendations made by the assessment counselor
6. Any mitigating or aggravating circumstances

FEE, FINES, AND COSTS:

1. **Application Fee:** \$50.00 non-refundable DUI Diversion Application Fee, paid by money order or cashier's check ***made payable to Simpson, Longback, Lynch, Norris, PA***
2. **Diversion Fee:** \$500.00 non-refundable DUI Diversion Fee.
3. **Performance Supervision Fee:** \$200.00 non-refundable DUI Diversion Performance Supervision Fee.

4. **DUI Offense Fine:** \$500.00 (statutory minimum) non-refundable fine.
5. **Court Costs:** of \$100.00.
6. Costs associated with criminal and driving records requests.
7. Fees, fines, and costs must be paid by electronic funds transfer, cash, check, or money order. All fines/fees/costs, except the application fee, are to be **made payable to the City of McLouth.**
8. Payment arrangements may be made with the City Prosecutor, HOWEVER, **ALL** fees, fines, and costs must be made within 90 days after the beginning of the DUI Diversion Program.
9. NO PERSONAL CHECKS WILL BE ACCEPTED.

ALL CORRESPONDENCE REGARDING THE DUI DIVERSION PROGRAM MUST BE SENT TO City Clerk, City Prosecutor at:

**110 N. Union Street
McLouth, KS 66054**

Other contact may be made as follows:

Phone: 913-796-6411

Fax: 913-796-6131

clerk@cityofmclouth.org

APPLICATION FEE: Make checks payable to:
Simpson, Logback, Lynch, Norris PA

And mail to:
City Clerk
110 N. Union Street
McLouth, KS 66054

ALL OTHER FINES, FEES, and COURT COSTS: Make checks payable to:
The City of McLouth

And mail to:
Clerk of the Municipal Court
110 N. Union Street
McLouth, KS 66054

**CITY OF MCLOUTH, KANSAS
DUI DIVERSION APPLICATION**

The non-refundable DUI Diversion Application fee is \$50.00. Payment must be made to Simpson, Longback, Lynch, Norris, PA by check or money order. PLEASE PRINT and PROVIDE COMPLETE INFORMATION. If the Application is incomplete, it will be denied.

Ticket Number _____ Date Received _____ Court Date _____

Last Name _____ First Name _____ Middle Initial _____

List Aliases/ Maiden Names _____

Current Street Address _____ City _____

State _____ Zip Code _____ Email _____

How long have you lived at this address? _____

Phone (home) _____ (work) _____ (cell) _____

Who do you live with? _____

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

Spouse's employment _____

Number of minor dependents _____

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

Social Security Number _____ Date of Birth _____ Sex _____ Race _____

Driver's License Number _____ State _____

Insurance Company Name _____

Policy Number _____ Expiration Date _____

Current Employer _____ Employer Address _____

City _____ State _____ Zip Code _____ Phone _____

Job Title _____ Work Hours _____ Wage/Salary _____

Education/Vocational Training: list highest grade completed and education after high school:

SCHOOL	LOCATION	DATES ATTENDED	GRADE/DEGREE

Military Service _____ Yes _____ No _____ Branch _____

Type of Discharge _____ Date of Discharge _____

Name of contact person NOT in your household _____

Address _____ Phone _____

Relationship to you _____

PRIOR RECORD (Criminal, Traffic, Juvenile):

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 where and for what offense:

Have you ever received a drug or alcohol assessment? Yes _____ No _____

If "yes," where _____ and when _____

Have you ever attended counseling for alcohol or drug related issues? Yes ___ No ___

Have you ever been in drug or alcohol treatment Yes ___ No ___

If "yes," where _____ and when _____

Have you ever participated in a 12-step program? Yes ___ No ___

If "yes," where _____ and when _____

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 DUI Diversion Program application, 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 DUI 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 DUI Diversion is true and correct.

❖ **I understand** that if my Application for DUI 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 DUI Diversion I am admitting that I committed the offense(s) alleged in the Uniform Notice to Appear and Complaint. I understand that if I fail to complete the DUI Diversion, that I have admitted to the offense and the trial/disposition of my case will be based upon the facts as admitted.

I BELIEVE THAT I SHOULD BE GRANTED THIS DUI DIVERSION BECAUSE:

WHY DO YOU BELIEVE YOU WILL BE ABLE TO SUCCESSFULLY COMPLETE THE DUI DIVERSION PROGRAM?

❖ *I request that my Application for the DUI Diversion Program 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 the DUI Diversion Program 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**.

Application for DUI Diversion is Approved _____ Denied _____ by the City Prosecutor.

Trevin Wray, City Prosecutor *Date*