

Passed: July 11, 2017
Published: July 19, 2017

ORDINANCE NO. 2322

AN ORDINANCE RELATING TO THE TRAFFIC ORDINANCE OF THE CITY OF DERBY, KANSAS; AMENDING AND REPEALING SECTIONS 10.04.029.2, 10.04.132, AND 10.04.181.1 OF THE DERBY MUNICIPAL CODE AND PROVIDING SUBSTITUTE PROVISIONS THEREFORE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:

Section 1. Section 10.04.029.2 of the Derby Municipal Code is hereby amended to read as follows:

“10.04.029.2 - Preliminary breath test.

- A. Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath or saliva, or both, subject to the provisions set out in subsection B.
- B. A law enforcement officer may request a person who is operating or attempting to operate a motor vehicle within this state to submit to a preliminary screening test of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.
- C. At the time the test is requested, the person shall be given oral notice that:
 - 1. There is no right to consult with an attorney regarding whether to submit to testing;
 - 2. Refusal to submit to testing is a traffic infraction; and
 - 3. Further testing may be required after the preliminary screening test.

Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

- D. Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer

in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto.

- E. Any preliminary screening of a person's breath shall be conducted with a device approved pursuant to K.S.A. 65-1,107, and amendments thereto."

Section 2. Section 10.04.132 of the Derby Municipal Code is hereby amended to read as follows:

"10.04.132 - Lamps and other equipment on bicycles.

- A. Every bicycle when in use between sunset and sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and either: (1) a red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; (2) A lamp on the rear that shall emit a red light visible from a distance of 500 feet to the rear ; or (3) the operator of such bicycle shall be wearing a device that emits a red or amber light that shall be visible from a distance of 500 feet to the rear.
- B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
- C. No person shall sell a pedal for use on a bicycle, unless such pedal is equipped with a reflector which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of 200 feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this subsection."

Section 3. Section 10.04.181.1 of the Derby Municipal Code is hereby amended to read as follows:

"10.04.181.1 - Seat belts.

- A. Except as provided in Section 10.04.181 and in subsections B or C of this section, each occupant of either a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208 or an autocyple, who is eighteen years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.
- B. Each occupant of either a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208 or an autocyple, who is at least fourteen years of age but less than eighteen years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in

motion.

- C. Every driver who transports a person who is at least fourteen years of age but under eighteen years of age shall provide for the protection of such person by properly ensuring that such child has a safety belt properly fastened about such person's body at all times when the passenger car or autocycle is in motion.
- D. This section does not apply to:
 - 1. An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;
 - 2. Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;
 - 3. Newspaper delivery persons while actually engaged in delivery of newspapers along with their specified routes; or
- E. Law enforcement officers shall not stop drivers for violations of subsection A.1. by a back seat occupant in the absence of another violation of law. A citation for violation of subsection A.1. by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.
- F. Penalties.
 - 1. Persons violating subsection A.1. shall be fined thirty dollars and no court costs; and
 - 2. Persons violating subsection A.2. shall be fined sixty dollars and no court costs.
- G. As used in this section, passenger car means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying ten passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle.

Section 4. Repeal

Original sections 10.04.029.2, 10.04.132, and 10.04.181.1 of the Derby Municipal Code are hereby repealed. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

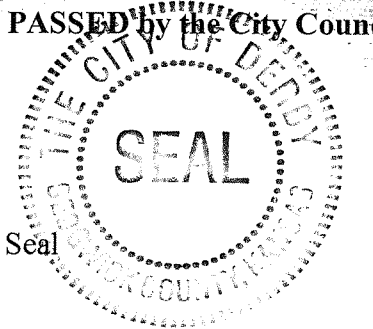
Section 5. Severability

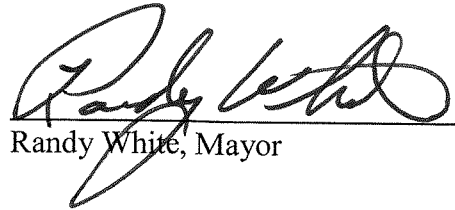
Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

Section 6. Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City's official newspaper as provided by State law.

PASSED by the City Council this 11th day of July, 2017 and **SIGNED** by the Mayor.





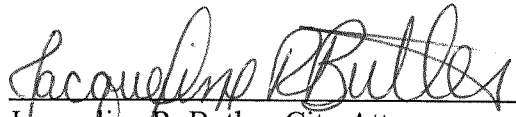
Randy White, Mayor

Attest:



Karen Friend, City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney