

A CHARTER ORDINANCE EXEMPTING THE CITY OF DERBY, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112 AND 12-4411, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE CODE OF PROCEDURE FOR MUNICIPAL COURTS.

BE IT ORDAINED BY THE CITY OF DERBY, KANSAS:

Section 1. The City of Derby, Kansas, a City of the second class, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 12-4112 and 12-4411, which is not uniformly applicable to all cities within the State, the legislature having made special provisions applying to certain classes of cities in said enactment.

Section 2. In lieu of the provisions of K.S.A. 12-4112, the City of Derby hereby adopts the following schedule of Court costs and fees to be charged and collected in all actions and cases filed and docketed in the Municipal Court:

A]. For docketing any case and thereafter entering any final judgment or order, \$10.00.

B]. For furnishing a transcript or judgment of appeal, to be charged against the defendant if said judgment appealed from is affirmed, \$15.00.

C]. For executing any document in the Clerk's office which constitutes a Waiver of Trial and an authorization to enter a plea of guilty on behalf of the defendant, \$2.00.

Section 3. In addition to the costs set out above, the Municipal Judge of the City of Derby, Kansas, is authorized and empowered to assess witness fees and mileage, as provided in Section 5 herein.

Section 4. If it appears to the Court that the prosecution was instituted without probable cause and from malicious motives, the Court may require the person initiating the prosecution to appear and answer concerning the motives of such person for instituting the prosecution. If, after such hearing the Court determines that the prosecution was instituted without probable cause and from malicious mo-

tives, all costs in the case shall be assessed against the complaining witness or other person initiating the prosecution.

Section 5. In lieu of the provisions of K.S.A. 12-4411, the City of Derby hereby adopts the following provisions: All parties shall be entitled to the use of subpoena to compel the attendance of witnesses within this State. The Municipal Court Judge or Clerk of the Court shall issue a subpoena which may be served by any law enforcement officer upon the named person. Disobedience may constitute contempt.

Fees and mileage of subpoenaed witnesses shall be Two Dollars and Fifty Cents (\$2.50) per day, or any part thereof, for an appearance, plus Fifteen Cents (\$.15) per mile actually driven over ten (10) miles. Mileage driven by a law enforcement officer to serve a subpoena or for the service of a warrant, or to transport a person arrested or detained in the State of Kansas under a warrant issued by the Municipal Court, shall be charged at the rate of Fifteen Cents (\$.15) per mile actually driven over five ( 5) miles outside the City Limits of the City of Derby.

Section 6. If the accused person is unable to pay the costs assessed against him, such costs shall remain a judgment against him which may be enforced as a judgment for payment of money in Civil cases.

Section 7. All Court costs and fees provided for by this Charter Ordinance are to be collected by the Municipal Court, or Clerk, and shall be paid into a fund hereby created, called the Municipal Court Fund, and shall be maintained by the Municipal Clerk, to be disbursed upon proper voucher for the following purposes:

A]. For payment of attorney fees properly charged against said fund for representation of indigent defendants as provided by law;

B]. For payment of costs of seminars attended by Court officers, Clerks, and judicial officers of the City of Derby;

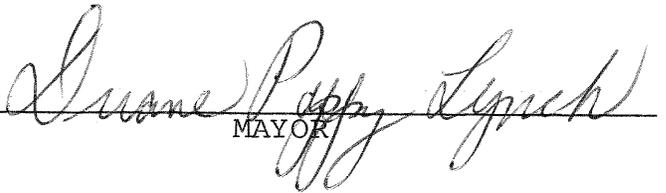
C]. For payment of equipment and supplies as required and approved by the Municipal Court;

D]. To transfer any excess to the City General Fund once each year as ordered by the Governing Body of the City of Derby.

Section 8. This Ordinance shall be published once each week for two consecutive weeks in the official City paper of the City of Derby, Kansas.

Section 9. This is a Charter Ordinance, and shall take effect sixty-one (61) days after final publication, unless a sufficient petition for referendum is filed and a referendum is held on this Ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of the State of Kansas, in which case the Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body of the City of Derby, Kansas, not less than two-thirds of the members thereof voting in the affirmative thereon, this 3rd day of June, 1980.

  
MAYOR

ATTEST:



[ S E A L ]