

Passed: _____
1st Publication: _____
2nd Publication: _____

CHARTER ORDINANCE NO. 34

**A CHARTER ORDINANCE OF THE CITY OF DERBY, KANSAS,
EXEMPTING SUCH CITY FROM THE PROVISIONS OF K.S.A. 12-1758,
RELATING TO PUBLIC BUILDING COMMISSIONS AND THE
ISSUANCE OF REVENUE BONDS THEREBY; AND PROVIDING
SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO.**

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the "Act") provides that cities may exercise certain home rule powers, including adopting charter ordinances which exempt such cities from enactments of the Kansas Legislature; and

WHEREAS, the City of Derby, Kansas (the "City") is a city, as defined in the Act, duly created and organized under the laws of the State of Kansas (the "State"); and

WHEREAS, K.S.A. 12-1758 is a part of an enactment of the Kansas Legislature (K.S.A. 12-1757 *et. seq.*) relating to public building commissions and the issuance thereby of revenue bonds, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State; and

WHEREAS, the governing body of the City desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 12-1758, and to provide substitute and additional provisions therefor in order to provide additional and alternative methods for financing certain public buildings in the City;

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

Section 1. Exemption -- K.S.A. 12-1758. The City, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it, the provisions of K.S.A. 12-1758, and does hereby provide the following substitute and additional provisions in place thereof as follows:


(a) The City, by appropriate ordinance, may create a public building commission for the purposes of acquiring fee simple title or a leasehold interest in a site or sites, constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, a building or buildings, equipment or other facilities of a revenue producing character, including parking facilities. Such a site or sites, building, equipment or facilities shall be maintained and operated for any public purpose by any city, county, school district, community college, any federal governmental agency or instrumentality, the State of Kansas or any agency or instrumentality thereof, or any other municipal or quasi-municipal corporation, political subdivision or body politic or agency or instrumentality thereof.

(b) A public building commission created by the City may acquire fee simple title or a leasehold interest in land and facilities adjacent to or near any educational institution under the supervision and control of the state board of regents or may acquire by lease, land and facilities constituting a part of the campus of any such institution. Any public building commission may construct, reconstruct, equip and furnish such facilities on such land and lease such land and facilities to the official governing body of such institution. Any such lease entered into shall pledge the net revenue from such land and facilities. Any city also may pledge such funds as may be necessary from those which are provided to be paid over to the board of trustees from the annual tax levy as provided by K.S.A. 76-3a07, and amendments thereto. Any county also may pledge such funds as may be necessary from those which are provided to be paid over to such institution from a special levy authorized for such purpose under K.S.A. 19-117, and amendments thereto. The governing body of such city or county is hereby authorized to designate any surplus from such tax levy as may be necessary to guarantee the rentals under any such lease, and such city or county is hereby exempted from the provisions of K.S.A. 10-1101 to 10-1122, inclusive, and 79-2925, and amendments thereto, to the extent necessary to enable the City such city or county to make a covenant to effect such guarantee.

Section 2. Severability. If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 3. Effective date. This Charter Ordinance shall be published once a week for two consecutive weeks in the Official City newspaper, and shall take effect sixty (60) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten per cent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk, demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such a purpose.

ADOPTED BY THE GOVERNING BODY this 2nd day of December,
1997.



K.O. LaVergne, Mayor

ATTEST:



Patty A. Kroll, City Clerk