

## CHARTER ORDINANCE NO. 50

**A CHARTER ORDINANCE EXEMPTING THE CITY OF DERBY, KANSAS FROM THE PROVISIONS OF THE WATER POLLUTION ACT, K.S.A. 12-3101 THROUGH K.S.A. 12-3107, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO ESTABLISHMENT, OPERATION AND MAINTENANCE OF SEWER SYSTEMS AND TO ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR THE GROUNDS AND IMPROVEMENTS NECESSARY FOR THE OPERATION OF SUCH SYSTEMS.**

**BE IT ORDAINED by the Governing Body of the City of Derby, Kansas:**

**Section 1. Exercise of home rule power.** The City of Derby, Kansas, ("City"), by virtue of the powers vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and hereby makes inapplicable to it sections 12-3101 through 12-3107, inclusive, of the Kansas Statutes Annotated, which apply to the City, and to adopt substitute and additional provisions therefor as set forth herein.

**Section 2. Definitions.** For the purposes of this charter ordinance, the words and phrases "sewer," "sewer system" or "sewer systems" shall mean sanitary and storm sewers that exist at the time this charter ordinance is adopted or are hereafter established and all appurtenances necessary to maintenance and operation of the same, including but not limited to pumping stations, sewage treatment plants, main sewers, intercepting sewers, outfall sewers, surface drains, channels, rivers, streams and other flood control facilities and works for the collection, transportation, pumping, treating, and disposing of water-carried wastes or storm or surface waters.

**Section 3. Sewer systems; powers of City.** The City shall have all the powers necessary or convenient to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, repair and replace a sewer system or sewer systems, including such powers as the City may establish from time to time by way of ordinances adopted by the governing body of the City, including but not limited to the following:

(a) To impose and collect one or more sewer service charges, as established by ordinance, on property served by the City's sewer system or sewer systems;

(b) To provide that sewer service charges authorized in subparagraph (a) above, when delinquent, shall be certified by the Clerk of the City to the county clerk of Sedgwick County to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as *ad valorem* taxes and such charges shall thereafter constitute a lien upon the real property served by the sewer system or sewer systems and against which such charges were made;

(c) To use the proceeds of sewer service charges authorized hereby to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, repair and replace a sewer system or sewer systems;

(d) To issue general obligation bonds or revenue bonds, as authorized by law, and to use the proceeds thereof to plan, alter, enlarge, extend, improve, construct, reconstruct, develop and redevelop a sewer system or sewer systems;

(e) To use the proceeds of the sewer service charges authorized hereby to pay the principal and interest on bonds heretofore or hereafter issued for the planning, constructing, reconstructing, altering, enlarging, extending, improving, developing, redeveloping, operating, maintaining, repairing and replacing of a sewer system or sewer systems.

(f) To contract with agencies of the federal government, public bodies of this state or other states, or with any private person or body to jointly plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, repair or replace a sewer system or sewer systems;

(g) To contract with agencies of the federal government, public bodies of this state or other states or with any private person or body to receive and treat sewage or stormwater from outside of the city limits of the City;

(h) To plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, repair and replace a sewer system or sewer systems outside the city limits of the City and to have the right of eminent domain outside the city limits of the City in order to acquire land and right-of-way for a sewer system or sewer systems;

(i) To borrow money and to apply for and accept advances, loans, grants, contributions or any other form of financial assistance from federal government, state, or county governments or any other public body for the purposes of this charter ordinance and, when contracting with the federal government for any such financial assistance, to include in any such contract such conditions imposed pursuant to federal law as the City may deem reasonable and appropriate;

(j) To establish, pursuant to this charter ordinance, a sanitary sewer system utility, a storm sewer system utility, and to combine its sanitary sewer system utility, storm sewer system utility and its water utility system into one or more utilities; and

(k) To establish a unified and consolidated billing system for such sanitary sewer system utility, storm sewer system utility and water utility system, whether or not the same are combined as provided for in subparagraph (j) above.

**Section 4. Same; rules and regulations authorized; billing and collection of sewer service charges; discontinuance of water service, when.** The City shall have the power to adopt, by or pursuant to ordinance, such rules and regulations as it deems appropriate for the management and operation of its sewer system or sewer systems, including but not limited to prohibiting the discharge into such sewer system or sewer systems of matter deleterious to the proper operation of the sewer system or sewer systems and the general health, safety and welfare of the community; establishing the types and characteristics of sewage and stormwater that may be discharged into the sewer system or sewer systems; and establishing the method for calculating and fixing the service charge for property served by the City's sewer system or sewer systems, requiring security for the payment thereof. providing methods and rules of collection, and providing for the disposition of the revenue therefrom. In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's sewer system or sewer systems shall neglect, fail or refuse to pay the service charges so established, the City may, pursuant to rules and regulations adopted under the authority of this section, and if a unified and consolidated billing system has been established, refuse the delivery

of water through the pipes and mains of its publicly owned waterworks until such charges are fully paid.

**Section 5. Issuance of sewer system revenue bonds; requirements.** (a) The City shall have the power to issue revenue bonds from time to time in its discretion to finance the planning, altering, enlarging, extending, improving, constructing, reconstructing and replacing of a sewer system or sewer systems pursuant to this charter ordinance. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the City derived from or held in connection with its sewer system or sewer systems; provided, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law relating to authorization, issuance or sale of bonds. Bonds issued under the provisions of this charter ordinance are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this section shall be authorized by ordinance or resolution of the governing body and may be issued in one or more series and shall bear such date or dates, be payable on demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution adopted pursuant hereto.

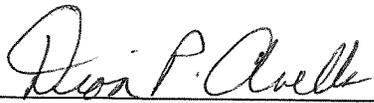
**Section 6. Same; powers supplemental and additional.** The powers herein granted to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain or replace a sewer system or sewer systems and to issue bonds therefor shall be supplemental to and not amendatory of the provisions of all other laws and shall not be construed to limit the City's authority under the provisions of any other laws.

**Section 7. Publication.** This charter ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

**Section 8. Effective date.** This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed requiring a referendum to be 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.

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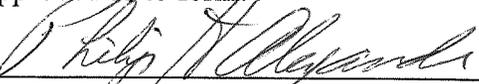
**PASSED BY THE GOVERNING BODY**, not less than two-thirds of the members elect voting in favor thereof, the 10<sup>th</sup> day of July, 2012.

  
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Dion P. Avello, Mayor

ATTEST:

  
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Jean Epperson, City Clerk

Approved as to form:

  
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Philip H. Alexander, City Attorney