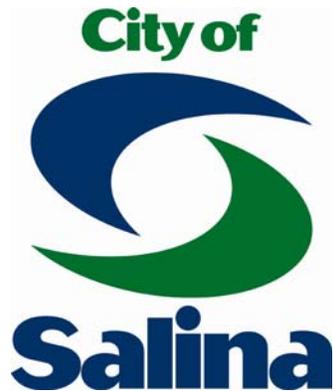


SALINA CODE

CITY OF SALINA, KANSAS



Codified up to Ordinance No. 08-10437– February 19, 2008

CHAPTER 35. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹

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ARTICLE I. IN GENERAL

Sec. 35-1. Ramps or runways prohibited.

It shall be unlawful for any person to place or use, or to permit, cause or allow to be placed or used any ramp or runway attached to the curb on or along any public street or thoroughfare in the city and which projects into any such street or thoroughfare and onto the pavement thereof, the ramp or runway herein referred to being such as is commonly used for the purpose of driving automobiles or other vehicles over the curb when no driveway entrance is cut into the curb.

(Code 1966, § 32-2)

Sec. 35-2. Salt water prohibited on pavement.

It shall be unlawful for any person to pour, dump, place or throw, or to cause to be poured, thrown, placed or dumped, into or upon the sidewalk, pavement or gutter in any street, alley or other public highway or thoroughfare in the city, or in any such place that the same will run or drain into or upon any such sidewalk, pavement or gutter, any salt water, salt or ice and salt, or salty solution, substance or liquid. Any person either acting for himself or as the agent, representative, employee or member, officer or manager of any such person who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

(Code 1966, § 32-3)

¹ **Cross references:** Any ordinance dedicating, establishing, opening, reopening, naming, renaming, widening, narrowing or vacating a street, boulevard, avenue, alley, or other public way, including rights-of-way saved from repeal, § 1-5(5); any ordinance establishing or changing the grade of any street, avenue, boulevard or other public way saved from repeal, § 1-5(6); airport, Ch. 4; consumption of alcoholic liquor in public places, § 5-24; consuming cereal malt beverages in public streets, § 5-68; buildings and structural appurtenances, Ch. 8; cemeteries, Ch. 9; fire prohibited on streets, § 14-78; sale of gasoline on streets and sidewalks, § 14-79; library, Ch. 19; curfew for minors, § 21-16 et seq.; mobile homes and trailers, Ch. 22; parks and recreation, Ch. 27; planning; Ch. 29; public utilities, Ch. 31; subdivision regulations, Ch. 36; traffic and motor vehicles, Ch. 38; trees and shrubs, Ch. 39; vehicles for hire, Ch. 40; water and sewers, Ch. 41; zoning regulations, Ch. 42.

Sec. 35-3. Driving rod or stake through pavement.

It shall be unlawful for any person at any time for any purpose whatever, to drive any rod or stake through any pavement on any street, alley or other public ground in the city without first obtaining the written permit of the city engineer to do so.

(Code 1966, § 32-8)

Sec. 35-4. Removing, interfering with barricades, warning devices.

It shall be unlawful for any person to remove, displace, take away or in any manner interfere or meddle with any barricade, barrier, obstruction, railing, light or other warning signal placed by the city, or any agent thereof or by any person acting under the authority or with the consent of the city, for the purpose of protecting any pavement, sidewalk or other public improvement in the course of construction in the city.

(Code 1966, § 32-9)

Sec. 35-5. Using sidewalk or paving protected by barriers, warning devices.

It shall be unlawful for any person to walk upon or use any sidewalk or to use or operate any kind of vehicle upon and over any pavement in the course of construction in the city when the same shall be protected against such use by means of barriers, barricades, obstructions, lights or other warning signals placed there by the city or by persons acting with authority and consent of the city, for the purpose of protecting such unfinished pavement, sidewalk or other public work against damage until its completion.

(Code 1966, § 32-10)

Sec. 35-6. Permits required for certain construction in, under streets, sidewalks.

It shall be unlawful for any person to construct in any street or in or under any sidewalk in the city any bulkheads, cellar or basement ways, areaways, railings or stairways, or excavations for any of the same without first securing from the board of commissioners a permit for the same which shall in each case state specifically the terms and conditions under which such permit is issued and the manner in which and the conditions under which the same shall be maintained.

(Code 1966, § 32-11)

Sec. 35-7. Protection of stairways, areaways.

It shall be unlawful for any person to use or maintain in any street or in or under any sidewalk in the city any cellar or basement way, areaway or stairway, unless the same shall be protected by an iron railing on all exposed sides thereof which shall consist of at least two (2) rails, the top one of which shall be at least thirty-nine (39) inches above the street level and the other rail one-half that height from the street level. In the case of stairways leading into any such cellar or basement way or areaway, the head of such stairway shall be protected by an iron gate comprised of at least two (2) rails of the same height from the street as herein specified for other railings, which shall open outward from such cellar or basement way or areaway, and shall be so constructed that the same shall at all times be securely latched so that the same cannot be opened by a person walking into or against the same from the outside thereof, and such gate shall be constructed that it shall at all times be kept closed except when in actual use.

(Code 1966, § 32-12)

Secs. 35-8--35-20. Reserved.

ARTICLE II. BENCH MARKS

Sec. 35-21. Bench marks established.

The bench marks heretofore established in the city by the United States Coast and Geodetic Survey and placed upon certain established buildings and at other places in the city, as hereinafter set forth, are hereby established as the official bench marks to be used in ascertaining and fixing the elevations and grades of the streets and alleys in the city, the location of said established bench marks and their elevations above sea level, as fixed by said survey being as follows, to wit:

At Salina, 0.9 mile north along Santa Fe Avenue from the crossing of the Union Pacific Railroad, directly across Otis Avenue from the southeast corner of the grounds of the St. John's Military School, 277.3 feet east of the east concrete curb of the north end of Santa Fe Avenue, 34.0 feet west of the center of North Fifth Street, 33.0 feet south of the center of Otis Avenue, 11.2 feet east southeast of a fire hydrant, set in a concrete post about flush with the top of the ground. A bench mark disk stamped M 167 1934.....1217.196 feet

At Salina, along the west side of the block occupied by the old Saline County Court House, along the east side of Tenth Street and about midway between Elm Street and Park Street, in the north wall of the brick boiler house, 4.0 feet west of the northeast corner of and 2.5 feet east of the east side of the north entrance door, 3.2 feet above the top of a concrete walk, set vertically in the north wall of the building. A bench mark disk stamped Q 167 1934.....1229.397 feet.

At Salina, 4.0 miles south along the Union Pacific Railroad from the station at Salina, at a road crossing, 3 poles south of milepost 4, 143 feet south of the center line of Magnolia Road, 74 feet west of the west rail, 44.5 feet west of a fence, 2.6 feet north of a witness post, set in the top of a concrete post which projects 0.5 foot above the ground, directly beneath the center of a power line tower. A bench mark disk stamped B 292 1952.....1238.734 feet.

(Code 1966, § 32-23)

Secs. 35-22--35-35. Reserved.

ARTICLE III. OBSTRUCTIONS AND ENCROACHMENTS

DIVISION 1. GENERALLY

Sec. 35-36. Prohibited.

It shall be unlawful for any person to obstruct or encroach upon any sidewalk, street, avenue, alley or other public property.

(Code 1966, § 32-37)

Sec. 35-37. Notice and removal.

Wherever any obstruction may be found upon any sidewalk, street, avenue, alley or in other public places in the city, it shall be the duty of the chief of police immediately to notify the owner or occupier of the premises fronting thereon or the person placing the same thereon to remove the same without delay, and upon failure so to do, the chief of police shall have the obstruction removed at the expense of the owner or occupiers of the property and such expenses, if not paid, shall be a valid claim in favor of the city against such persons.

(Code 1966, § 32-38)

Sec. 35-38. Temporary while receiving, shipping merchandise.

Persons occupying premises fronting thereon may have such temporary use of the streets and sidewalks as shall be actually necessary in receiving and shipping merchandise.

(Code 1966, § 32-39)

Sec. 35-39. In the course of building construction.

Any person erecting buildings in the city may, for the time occupied in their erection and while it is necessary to do so, occupy a reasonable portion of the streets and sidewalks in front of the same for receiving and delivering materials, but in no case shall he obstruct the gutters so as to prevent the passage of water therein, and when it shall be necessary in any such case for the owner of the property to take up and remove the sidewalk, he shall, at the time of so taking up and removing, construct a temporary sidewalk not less than three (3) feet wide for the public travel and convenience; and in case of open basements or other excavations, the owner or occupier of the property upon which the same are situated or the person in charge of the excavation shall provide the same with sufficient guards to protect against accidents.

(Code 1966, § 32-40)

Sec. 35-40. Use of public property for aesthetic purposes by abutting property owners.

The board of commissioners may grant a permit to any person to use a portion of any sidewalk, street, avenue, alley or other public property abutting upon their property for aesthetic purposes notwithstanding the provisions of section 35-36. Application for such permit shall be made to the city clerk and shall be referred by him to the board of commissioners. The application for such permit shall be accompanied by a detailed plan and specifications for the proposed project. If the board of commissioners, on consideration of the application, finds that the proposed project will be beneficial to the appearance of the city and in accordance with any comprehensively planned development program for the area, and will not interfere with the use of the sidewalks, street, avenue or alley for the public purpose for which it was intended, the board of commissioners may grant a permit to the applicant for such purpose on such terms, conditions and restrictions as it deems in the public interest; provided however, that any permit granted hereunder shall be subject to revocation by the board of commissioners in the event that the property is required for public purposes or if the abutting property owners fail or neglect to use the same for the purposes for which the permit was granted or fail or neglect to maintain the same in a good state of repair and in that event, then the abutting property owner shall be required to remove any improvements made under the permit.

(Code 1966, § 32-41)

Sec. 35-40.1. Use of air space above the alleyways within Business Improvement District No. 1.

In the event any owner of property abutting an alleyway within the boundaries of Salina Business Improvement District Number 1 requests a permit to use a portion of the air space above the alley for improvements to the property, the zoning administrator may grant such a permit following review and recommendation by the Salina Business Improvement District Number 1 design review board. Authorized improvements shall consist of awnings, canopies, marquees and signs. The application for such permit shall be made in conjunction with the building permit application for the improvements. Minimum requirements for consideration for a permit shall be that:

- (1) The proposed improvements extend over the alleyway no more than one-half the width of the alleyway.
- (2) The proposed improvement may be approved only if it is a minimum of eight (8) feet above the highest grade elevation of the alleyway. In addition, any proposed improvement to be located in an alleyway maintained by the city with mechanized street sweeping equipment shall be approved only if it is determined by the director of general services that the physical presence of the proposed improvement will not inhibit the use of such equipment.
- (3) The property owner execute an agreement acknowledging responsibility for all ongoing maintenance necessary to keep the improvements in a good state of repair and appearance.
- (4) The property owner execute an agreement to hold the city harmless and to indemnify the city for any loss, cost or damage caused by such use and to procure and maintain public liability insurance covering the improvements for limits of not less than the maximum liability for claims which could be asserted against the city for any number of claims arising out of a single occurrence or accident under the Kansas Tort Claims Act, as it now exists or may hereafter be amended.
- (5) The property owner execute an agreement acknowledging that the permit shall be subject to revocation by the board of commissioners if the property is required for public purposes or if the property owner fails to comply with any condition of the permit and that in either such event the improvements shall be immediately removed without compensation.
- (6) The property owner execute an agreement acknowledging that in the event of an imminent threat to public health or safety, the city manager may direct the immediate removal of the improvement without compensation.

(Ord. No. 88-9248, § 1, 4-25-88)

Sec. 35-40.2. Use of public sidewalk in C-4 Central Business District for business hours placement of moveable signs and outdoor furniture.

In the event any owner of a building constructed without setback from an abutting public sidewalk or arcade in the C-4 Central Business District requests a permit for use by the owner or the owner's tenant for the abutting sidewalk or arcade for business hours placement of either a moveable sign or outdoor furniture, the city manager's designee may grant such a permit following review and recommendation by the Salina Business Improvement District Number 1 Design Review Board based upon administrative guidelines approved by the city manager. A moveable sign for which a permit is obtained pursuant to this section shall be exempt from any other sign permit requirements.

(Ord. No. 99-9931, § 1, 6-14-99)

Sec. 35-41. Wires in streets--Prohibited.

It shall be unlawful for any person, except electric light, telephone, telegraph and cable television companies, or other persons who shall have or may hereafter secure a franchise or license so to do, to construct, place or maintain any wires in, over or across any of the public streets or alleys or other public thoroughfares or public places in the city.

(Code 1966, § 32-42)

Sec. 35-42. Same--Duty to remove; declared nuisance; abatement.

Any wires constructed, placed or maintained contrary to the provisions of the preceding section shall be removed by the person responsible therefor at the direction of the electrical inspector of the city. If such wires are not so removed, they shall be deemed to constitute a public nuisance and may be abated as other public nuisances are abated, at the cost of such person, and in addition to such remedy by abatement, the electrical inspector shall have authority to take down and remove any such wires at any time at the cost of such person.

(Code 1966, § 32-43)

Sec. 35-43. Newsracks.

The placing of newsracks shall be allowed upon sidewalks or other public property by permit issued by the city clerk. The city manager is authorized to adopt administrative regulations regarding the issuance of such permits based upon public safety and public property maintenance concerns. The term "newsrack" shall include any device for holding and dispensing multiple copies of any newspaper publication for free or for a charge.

(Ord. No. 90-9405, § 1, 8-27-90)

Secs. 35-44--35-50. Reserved.

DIVISION 2. OBSTRUCTING VISIBILITY AT INTERSECTIONS

Sec. 35-51. Prohibited.

In all areas on public or private property at any corner formed by intersecting public streets or public streets intersecting with private driveways, it shall be unlawful to install, set out or maintain or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, or the parking of any vehicle within that triangle formed as hereby described, such areas to be herein referred to as the clear sight zone.

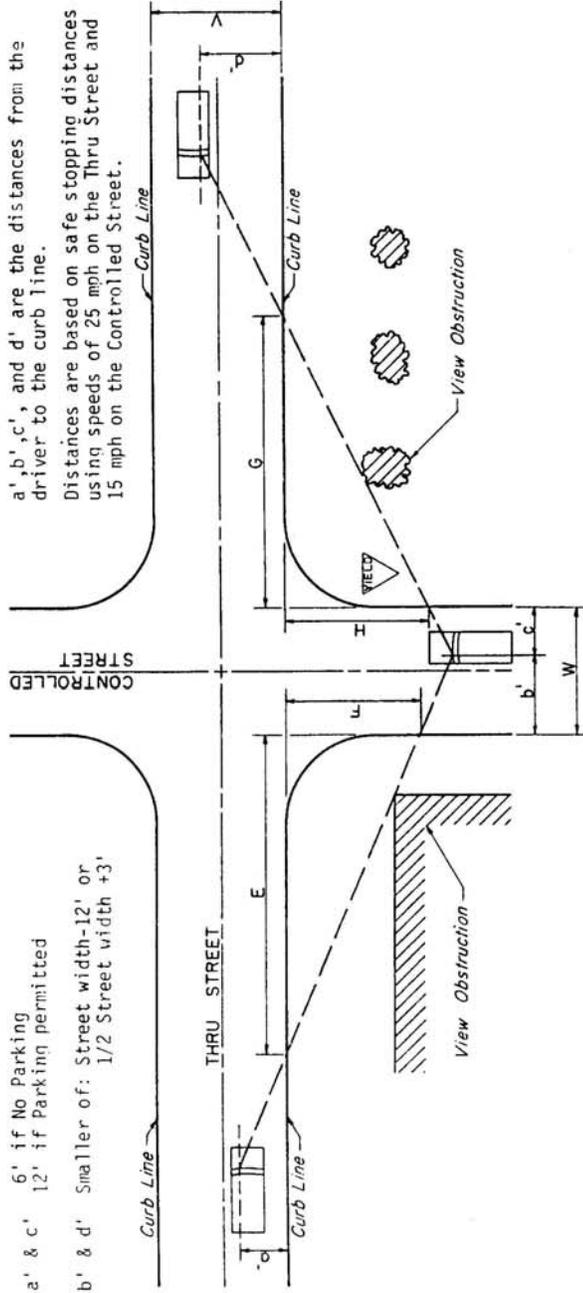
- (1) In uncontrolled intersections, the triangle is formed by the curblines (or the shoulder of the road where no gutter exists) of the intersecting streets drawn from the apex of the intersecting curblines back a distance of sixty (60) feet with a line drawn between such points.
- (2) At intersections controlled only by yield signs, a clear sight zone consists of two (2) triangles at each approach, one (1) on each side of any vehicle approaching the intersection. The triangle to the left of the approaching vehicle is calculated by utilizing table 1, which table appears at the end of this section.
- (3) At intersections controlled only by stop signs, a clear sight zone consists of two (2) triangles at each approach, one (1) on each side of any vehicle approaching the intersection. The triangle to

the left of the approaching vehicle is calculated by utilizing table 2, which table appears at the end of this section.

- (4) At intersections controlled only by full signalization or four-way stop signs, the clear sight zone consists of a triangle formed by the curblines (or the shoulder of the road where no gutter exists) of the intersecting streets drawn from the apex of the intersecting curblines back a distance of fourteen (14) feet with a line drawn between such points.
- (5) At intersections formed by public alleys and streets, the clear sight zone consists of two (2) triangles at each approach, one (1) on either side of the intersecting alley. The legs of these triangles are formed by the intersection of the curblines of the street (or the shoulder of the road where no gutter exists) and the centerline of the alley. These triangles are formed by measuring along the curblines (or shoulder) of the street from the center of the alley eighty (80) feet to the left and sixty-five (65) feet to the right and connecting each of these points to a point which is determined by measuring along the centerline of the alley back a distance of twenty (20) feet from the curblines (or shoulder) of the street.
- (6) At intersections formed by private driveways normally accessible to the public and public streets, clear sight zones will be determined utilizing the standards set forth for intersections controlled only by stop signs above.

If on-site conditions exist which have not been adequately anticipated by the adoption of these regulations, the situation will be reviewed by specific appropriate regulations will be determined by the city engineer.

Yield Sign Sight Triangle



a', b', c', and d' are the distances from the driver to the curb line.
Distances are based on safe stopping distances using speeds of 25 mph on the Thru Street and 15 mph on the Controlled Street.

a' & c' 6' if No Parking
12' if Parking permitted
b' & d' Smaller of: Street width-12' or
1/2 Street width +3'

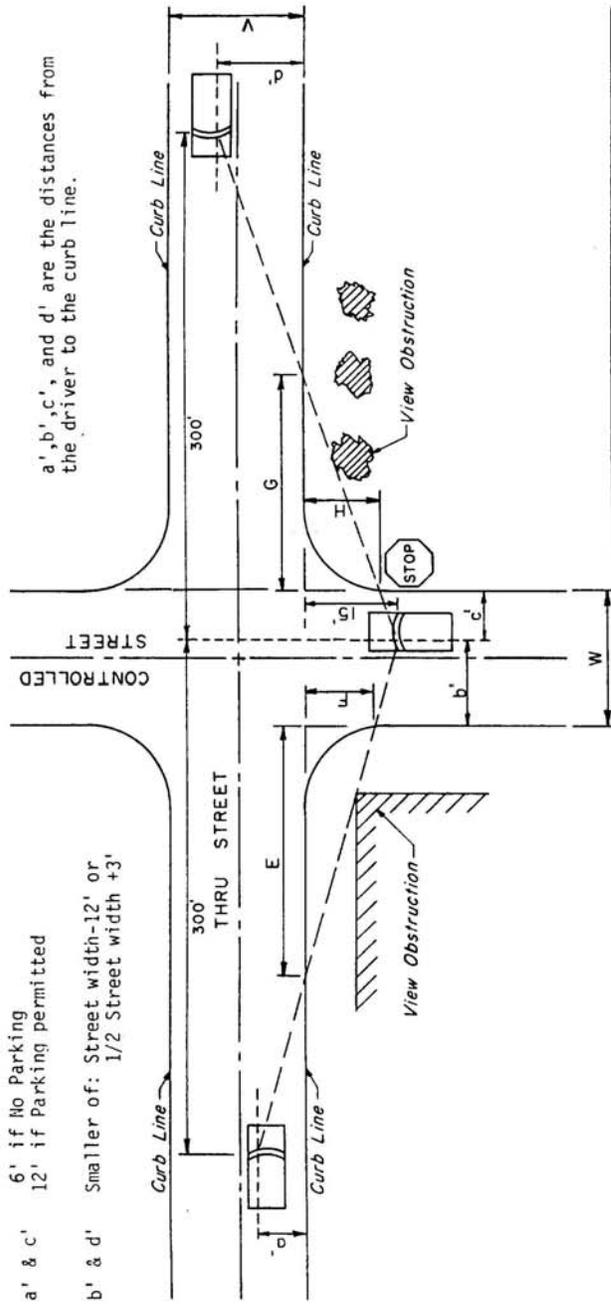
Thru Street Width	Parking on Controlled Street		No Parking on Controlled Street	
	G	H	G	H
25'	32'	39'	88'	42'
29'	73'	35'	79'	38'
33'	68'	32'	74'	35'
37'	63'	30'	69'	33'

Controlled Street Width	Parking on Thru Street		No Parking on Thru Street	
	E	F	E	F
25'	83'	39'	96'	45'
29'	79'	38'	92'	44'
33'	76'	36'	89'	42'
37'	74'	35'	87'	41'

Note: Values for G & H vary with the width of the Thru Street (V).

Note: Values for E & F vary with the width of the Controlled Street (W).

Stop Sign Sight Triangle



- a' & c' 6' if No Parking
12' if Parking permitted
- b' & d' Smaller of: Street width-12' or
1/2 Street width +3'

$a', b', c',$ and d' are the distances from the driver to the curb line.

Controlled Street Width	Parking on Thru Street		No Parking on Thru Street	
	E	F	E	F
25'	154'	14'	201'	14'
29'	150'	14'	197'	14'
33'	147'	13'	195'	14'
37'	145'	13'	193'	14'

Note: Values for E & F vary with the width of the Controlled Street (w).

Thru Street Width	Parking on Controlled Street		No Parking on Controlled Street	
	G	H	G	H
25'	149'	14'	155'	14'
29'	129'	14'	135'	14'
33'	118'	14'	124'	14'
37'	111'	14'	117'	14'

Note: Values for G & H vary with the width of the Thru Street (v).

Sec. 35-52. Exceptions.

The provisions of section 35-51 shall not apply to permanent buildings; public utilities poles; equipment required for traffic control; hedges trimmed to a height of less than three (3) feet; trees, the limbs of which are at all times kept trimmed of limbs and sucker growth on the trunk to a height of at least eight (8) feet or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least thirteen (13) feet; plant species not planted in the form of a hedge, which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; fences not exceeding four (4) feet in height, provided that the ratio of the solid portion of the fence to the open shall not exceed twenty-five (25) percent; supporting members appurtenant to permanent buildings existing on June 25, 1965; official warning signs or signals; places where the contour of the ground is such that there can be no cross visibility or signs mounted ten (10) feet or more above the ground whose supports do not constitute an obstruction; and noncommercial signs constructed parallel with the base line which, in the opinion of the police department, do not obstruct the clear sight zone. All heights herein mentioned shall be measured from the gutter grade at the apex of the clear sight zone triangle.

(Code 1966, §§ 32-56, 36-505(2); Ord. No. 90-9374, §§ 2, 3, 4-2-90)

Sec. 35-53. Preexisting violations not excepted.

No obstruction to cross visibility shall be determined to be an exception from the application of this division because of its being in existence on June 21, 1965, unless expressly exempted by the terms of this division.

(Code 1966, §§ 32-57, 36-505(3))

Sec. 35-54. Notice, removal by property owner.

When in the opinion of the police department an obstruction to visibility exists as prohibited herein, it shall be the duty of the department to give notice in writing to the property owner or owners complained against, providing that the notice shall specify in what manner a traffic hazard has been alleged to exist. Such notice shall direct the removal by the property owner or owners of such structures, trees or other obstructions which constitute said traffic hazard. Such property owner or owners shall be allowed ten (10) days in which to comply with the order, except obstructions of a temporary nature which shall be removed on notice.

(Code 1966, §§ 32-58, 36-505(4))

Sec. 35-55. Removal by city.

If within ten (10) days after the service of such notice, either by mailing or by personal delivery, the owner or owners of the lot or parcel of land have failed, refused, or neglected to remove such obstructions, then the city shall cause to be removed such obstructions on the lot or pieces of land of said owner, and the cost of such removal shall be assessed and charged against the lot or parcel of ground on which the obstruction was located and the city clerk shall at the time of certifying other city taxes, extend the same on the tax rolls of the county against the lot or parcel of ground and it shall be collected by the county treasurer and paid to the city as other taxes are collected and paid.

(Code 1966, §§ 32-59, 36-505(5))

Secs. 35-56--35-60. Reserved.

ARTICLE IV. MOVING BUILDINGS

DIVISION 1. GENERALLY

Sec. 35-61. Notice to building official required.

The applicant for a moving permit shall give the building official twenty-four (24) hours' notice in writing or in person before moving the building on any city street, which shall entitle the applicant to use the streets of the city for such moving operations during one calendar day.

(Code 1966, § 32-78)

Sec. 35-62. Height of building.

The over-all height of a building, when loaded up for moving, shall not exceed twenty-five (25) feet, as determined by the building official.

(Code 1966, § 32-79)

Sec. 35-63. Removal of wires.

Any person desiring to move any house or other building on, over or across any street, avenue, alley or other public thoroughfare, across or along which any telegraph, telephone, electric light or fire alarm wires, coaxial cable, railroad signal light power lines or other types of wires or cables have been erected and maintained with the knowledge, permission and consent of the city, shall give to the person owning or in charge of such wires at least twenty-four (24) hours' written notice of the time and place, when and where it may be necessary to cut or remove such wires to permit the moving of such house or other building and shall deposit in advance with such person the estimated cost of cutting, removing and replacing such wires. The owner or person in charge of such wires shall, within a reasonable time after the hour mentioned in such notice, remove the wires for a sufficient length of time to permit such moving, and the entire cost and expense of removing, cutting and replacing of the wires, including the time spent by the employees of the owner of such wires in going to and from such place, so as to permit the moving of any such house or other building, shall be paid by the person making such request; provided, however, that if by the terms of any existing franchise or ordinance, any person has been given the right to maintain wires on, along or across any street or public thoroughfare in the city at a distance of not less than sixteen (16) feet from the ground, then the person owning such wires shall not be required to remove and replace the same without charge unless such wires shall be less than sixteen (16) feet above the surface of street.

(Code 1966, § 32-80)

Sec. 35-64. Moving on certain streets prohibited; special permits.

It shall be unlawful for any person to move any house or other building into, along, through, upon or across Santa Fe Avenue, Fifth Street and Seventh Street between the south line of Elm Street and the south line of Walnut Street, or into, through, along, upon or across Ash Street, Iron Avenue or Walnut Street between the east line of Fourth Street and the west line of Ninth Street, except that for the moving of any house or other building across the Smoky Hill River or across or along any of such streets, a special permit may be granted by the city manager.

(Code 1966, § 32-81)

Sec. 35-65. Precautions required when building left in street at any time.

If any house or other building being moved shall be left standing in any street at night or at any other time, while no work is being done in connection with the moving thereof, the person doing such moving shall place at each end of the block a warning sign of such size and method of construction as may be approved by the building official, which shall, however, leave space at either side of such sign for the passing of traffic, for the purpose of notifying users of such street that the same is blocked and impassable, and any such sign shall be sufficiently lighted at night so as to make it plainly visible to all approaching the same and the person so moving any such house or building at the close of work on each day notify the fire chief of the exact location of any such house or other building in any street, avenue, alley or other public thoroughfare in the city.

(Code 1966, § 32-82)

Sec. 35-66. Precautions required when left in street at night.

It shall be unlawful for any person to permit any house or other building being moved to stand in or upon any street, avenue, alley or any other public thoroughfare in the city between the hour of sunset and the hour of sunrise without placing and maintaining between such hours, in a conspicuous position on the house or other building, at least three (3) red lights or flashing lights or lanterns on each side of such house from which direction any traffic may approach, and without placing and maintaining between such house, upon any and all apparatus or equipment used in connection with such house moving, and remaining in any such street and thoroughfare, a sufficient number of red lights or flashing lights or lanterns so as to make the same visible to all approaching traffic.

(Code 1966, § 32-83)

Sec. 35-67. Extending over curb line.

No house or other building shall be moved over, through, on or across any street, avenue, alley or other public thoroughfare in the city, where any part of such house or building extends over either curb line of such street, alley or public thoroughfare, except in the block from which or into which the house is to be moved.

(Code 1966, § 32-84)

Sec. 35-68. Planking required; exception.

No house or other building shall be moved over or along any paved street in the city unless planking not less than two (2) inches in thickness, of a width equal to the full width of the rollers on which the building is moved, shall be laid under all rollers; provided, that where any such house or building has a total floor area on all floors intended for living or business purposes of one thousand two hundred fifty (1,250) square feet or less, the person moving the same, with the consent and written permission of the city engineer, on a showing made to such engineer that such house or building can be moved without planking without injury to the paving on any street, omit such planking on any such street or such part thereof as may be described in such permit; provided further, that a permit to omit such planking, or the use of planking where required and used, shall not relieve the person moving any such house or other building or the surety on his bond, from liability for any damage which may be done to any pavement over or along which such house or building may be moved.

(Code 1966, § 32-85)

Sec. 35-69. Trimming of trees.

No tree or any branch, limb or part thereof shall be broken, cut off or removed by any person for the purpose of moving any house or building, except under the direction and supervision of the building official or of a person duly authorized by him, and in such manner and way and with such treatment of the tree thereafter as may be approved by the building official. Any person so breaking or removing any tree or part thereof as herein provided for or who shall direct or request such breaking, cutting or removing, or who may be responsible therefor, shall pay the expense of such supervision and the expense of any employees of the building official or the city in and about such supervision or in the cutting or treatment of such tree; provided, that this section shall not be deemed to permit the cutting or trimming of any tree contrary to the provisions of the laws of the state nor to relieve any such person of any liability on account of any such laws of the state; provided further, that for the purpose of this section, the building official or his employees or other employees of the city, shall, when engaged in the cutting, trimming or removing of any tree or part thereof for the purpose of permitting any house or building to be moved, or when engaged in any manner in trimming or cutting any tree or part thereof at the direction or request of any such person, be deemed to be the agent and representative of the person on whose behalf such cutting or trimming as provided for by the permit for moving such house or building; and such person shall be responsible for the acts of the building official or any other such employees in connection with the cutting, trimming or destruction of any such tree or parts thereof.

(Code 1966, § 32-86)

Cross references: Trees and shrubs generally, Ch. 39.

Sec. 35-70. Leaving building standing more than one hour.

No building shall be stopped and left standing for a longer period than one hour except between the hours of 5:00 p.m. of one day and 8:00 a.m. of the succeeding day.

(Code 1966, § 32-87)

Sec. 35-71. Crossing railroad tracks.

No house or building moving permit shall be issued without the mover having first obtained from any railroad whose tracks are to be crossed a written statement indicating that the railroad and the mover have agreed upon the time that the tracks are to be crossed by the house or building being moved so that the time of crossing will be coordinated with all existing train schedules. This written statement must be filed with the city clerk before the house or building moving permit shall be issued by the city clerk. The mover shall notify the railroad whose tracks are to be crossed of the intended date and hour of crossing within forty-eight (48) hours of that time. The railroad shall advise the movers of its schedules and execute the consent and deliver the same to the mover within not less than twenty-four (24) hours following notification of the railroad by the mover.

(Code 1966, § 32-88)

Sec. 35-72. Violations.

Any person, either as an individual or as the officer, agent, representative, employee or member of any firm or corporation, and whether as the owner or as the representative of such owner of the house being or to be moved, or whether as the contractor for the moving of any such house, who shall violate any of the provisions of this article, or who shall order, direct, authorize or permit the violation of any of the provisions of this article shall be deemed guilty of a misdemeanor; provided, that each and every violation of any provisions of this article shall be deemed a separate offense and that each separate day's

violation of the provisions of this article shall be deemed a separate offense; provided further, that the person making the application for the permit provided for in this article, whether as an individual or as an agent, employee or representative of any firm or corporation, shall be deemed to have authorized and shall be responsible for any violation of this article by any other person in any way connected with the moving of such house or building, but nothing herein contained shall be considered as relieving any other person from responsibility of any violation of the terms of this article of which such person may be found guilty.

(Code 1966, § 32-89)

Secs. 35-73--35-80. Reserved.

DIVISION 2. PERMIT

Sec. 35-81. Required.

No person either as an individual or as the agent, employee, officer, representative or member of any firm or corporation, shall move any frame house or other building, or any part thereof, from one place to another within the city, and through, over, on or across any street, avenue, alley or other public thoroughfare within the city without first making application for and securing a permit so to do from the city clerk as provided in this division.

(Code 1966, § 32-70)

Sec. 35-82. Application.

The application for a moving permit shall contain a description of the building, its location, the location to which it is to be moved and the proposed route.

(Code 1966, § 32-71)

Sec. 35-83. Approval of application by building official.

Before any application for a moving permit is filed, it shall be referred to the building official of the city, who shall inspect any such house or building described in such application, and if the floor area does not exceed two thousand (2,000) square feet, and if in his opinion, such house or building is in a proper and fit condition to be moved to the destination designated by the applicant, and that after such moving it will remain in a proper and fit condition for the use intended, he shall endorse his certificate of approval upon the application.

(Code 1966, § 32-72)

Sec. 35-84. Approval of route by fire chief, city engineer.

If the application for a moving permit is approved by the building official, he shall submit the same to the fire chief and the city engineer for their approval of the route over which such building is to be moved. Such approval shall be noted on the application; and if the route is rejected, the fire chief or city engineer shall note thereon a route which is satisfactory to them.

(Code 1966, § 32-73)

Sec. 35-85. Fees.

- (a) For a moving permit to move any frame house or other building or any part thereof through, over, on or across any street, avenue, alley or other public thoroughfare within the city, the applicant shall pay to the city at the time such application is filed an initial fee as prescribed in section 2-2.
- (b) If the moving operations are not completed within one calendar day, the applicant shall pay to the city for use of its streets an additional fee in the amount of the initial fee for each calendar day or any part thereof, for which the city streets are used in such moving operations.

(Code 1966, §§ 32-74, 32-75)

Sec. 35-86. Bond required.

Before the issuance of any permit by the city clerk, the applicant therefor shall file with the city clerk a bond in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant shall and will carry out and perform all of the duties imposed upon him by the provisions of this article, and that such applicant will indemnify and save harmless the city and all other persons from and against all damages and injury caused by such moving and from and against all claims for injury or damage whatsoever suffered or claimed to have been suffered on account of the moving of any such house or building or on account of the omission or commission of any act in connection therewith, and indemnifying the city and the public and any and all persons against any injury, damage or loss suffered by them or caused by reason of the moving or resulting therefrom or from the violation of any of the terms of this article. Such bond shall be approved as to form by the city attorney and as to the sufficiency of the sureties by the city manager. Any individual who is damaged by reason of such moving may file suit directly against the surety named in such bond. One bond may be filed by any person to cover any and all moving of houses or buildings by such person during the period of such bond. Any surety may cancel any such bond as to future liability by giving ten (10) days' notice in writing of such cancellation to the city clerk, to take effect at the expiration of said ten (10) days, and after the giving of such notice, no permit shall be issued to the principal in such bond until he shall file another bond as required by this section.

(Code 1966, § 32-77)

Sec. 35-87. Issuance, duration.

When an application for a moving permit is filed, with the certificate of the building official, fire chief, and city engineer, noted thereon, the city clerk shall issue the permit, which permit shall be valid for sixty (60) days from the date of issuance.

(Code 1966, § 32-76)

Secs. 35-88--35-100. Reserved.

ARTICLE V. NUMBERING BUILDINGS

Sec. 35-101. Compliance required; exception.

All the business buildings and dwellings situated within the corporate limits of the city shall be numbered in the manner and according to the plan specified in article V of chapter 35 of the Salina Code; provided, however, that the business buildings and dwellings which have been using addresses and numbers not in strict conformance with the provisions of section V of chapter 35 of the Salina Code on the effective date of this section need not comply with said numbering system.

(Code 1966, § 32-100; Ord. No. 84-9056, § 1, 12-17-84)

Sec. 35-102. Starting points.

The initial or starting lines for building numbers shall be Santa Fe Avenue and Iron Avenue, numbering north and south from Iron Avenue and east and west from Santa Fe Avenue, and allowing one hundred (100) numbers to each block. All short and angling streets shall take the nearest parallel corresponding block number. The city engineer is hereby authorized to make exceptions, but as consistent with the numbering system provided as possible, for odd arrangements of streets.

(Code 1966, § 32-101)

Sec. 35-103. Even and odd numbers.

Beginning at the intersection of Santa Fe Avenue and Iron Avenue, even numbers shall be assigned to the right-hand side of the streets and odd numbers to the left-hand side of the streets. The assignment of address numbers shall be the responsibility of the city engineer.

(Code 1966, § 32-102)

Sec. 35-104. Size of figures.

The figures used for numbering buildings shall not be less than two and one-half (2 1/2) inches high and shall be a color that contrasts with the building background for increased visibility.

(Code 1966, § 32-103; Ord. No. 90-9412, § 1, 10-15-90)

Sec. 35-105. Assignment of numbers.

It shall be the duty of the city engineer to see that all buildings which may hereafter be erected, or changed in the fronts of buildings already erected, shall be supplied with the number or numbers to which they shall be entitled under this article by the owners thereof and in all such cases the figures shall correspond with the plan or system and specifications herein contained. The building official shall state the street number of the building on the building permit for a new building.

(Code 1966, § 32-104)

Sec. 35-106. Duty to display numbers.

All business buildings or dwellings situated within the corporate limits of the city shall display the number assigned to that building on the front of the building.

(Code of 1966, § 32-105; Ord. No. 90-9412, § 2, 10-15-90)

Sec. 35-107. Curb marking license or permit required.

No person shall paint, apply or otherwise mark letters, numbers, or other graphics on a street, curb, public sidewalk, or other public improvement located in the public right-of-way (collectively referred to as "curb marking") without first applying for and obtaining a license or permit issued by the city clerk. Any person engaged in performing curb marking for other property owners, whether compensated or not, shall first obtain a curb marking license in accordance with Chapter 20. Any person performing curb marking in relation to his or her own property shall first obtain a curb marking permit.

(Ord. No. 96-9768, § 1, 11-4-96)

Sec. 35-108. Specifications.

The city manager is authorized and directed to establish requirements for the curb marking license and curb marking permit, including, but not limited to, specifications relating to color, size, and public purpose. It shall be unlawful to fail to obtain a curb marking license or permit when required or fail to comply with the requirements established pursuant to this section.

(Ord. No. 96-9768, § 1, 11-4-96)

Sec. 35-109. Public disclaimer.

Any advertisements or solicitations by a curb marking license holder shall include the statement that: "This is not a city government, fire or police department program. Our firm is licensed by the City of Salina to perform curb marking, but the city neither requires this type of curb marking, nor endorses any particular curb marking service".

(Ord. No. 96-9768, § 1, 11-4-96)

Sec. 35-110. Fees.

The application for a curb marking license shall be accompanied by the necessary license fee set forth in section 2-2 of this Code. No fee shall be required for a curb marking permit.

(Ord. No. 96-9768, § 1, 11-4-96)

Secs. 35-111--35-120. Reserved.

ARTICLE VI. DRIVEWAYS AND SIDEWALKS

DIVISION 1. GENERALLY

Sec. 35-121. Definitions.

The following works and phrases, when used in this article, shall have the meanings respectively ascribed to them:

- (1) *Contractor* means a person who is licensed by the city to perform concrete construction within the public right-of-way.
- (2) *Corner* means the point of intersection of the property lines of a corner lot where two (2) streets intersect.
- (3) *Curb parking space* means a length of curb equal to twenty-two (22) feet where an automobile or other vehicle can park.
- (4) *Curb return* means that portion of a curb next to a driveway approach which includes the radius of curvature or the ramp-type lug on commercial or industrial type pavements and which connects the driveway approach to the street curb.
- (5) *Driveway* means a place on private property for the operation of automobiles and other vehicles.

- (6) *Driveway approach* means an area, construction or facility between the roadway of a public street and private property. For clarification, a driveway approach must provide access to something definite on private property such as a parking area, a driveway or a door at least seven (7) feet wide intended and used for the entrance of vehicles.
- (7) *Outside sidewalk line* means a line parallel to the property line lying along the edge of the sidewalk nearest the street roadway or curb; or, where no sidewalk exists, a line in the street right-of-way parallel to and six (6) feet from the line of the private property.
- (8) *Parcel of land* means a lot or lots, or tract officially registered under one ownership.

(Code 1966, § 32-116)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 35-122. Supervision of work; rules; regulations authorized.

All work done under a permit issued in compliance with this article shall be under the direction and supervision of the city engineer, who is hereby authorized to make the necessary rules, regulations and specifications with respect to materials for and method of construction of such driveway approaches or sidewalks. Such rules, regulations and specifications shall be kept on file in the office of the city engineer and the city clerk at all times.

(Code 1966, § 32-131)

Sec. 35-123. Reserved.

Sec. 35-124. Plans and specifications adopted; filing; amendments.

The plans and specifications for sidewalks, driveway approaches, curbing and guttering and other concrete work in the streets and designated "Specifications for Concrete Work", are hereby adopted by reference. Copies shall be kept on file in the offices of the city clerk and the city engineer.

(Code 1966, § 32-217)

Sec. 35-125. Compliance with plans and specifications.

All sidewalks, driveway approaches, curbing and guttering constructed, reconstructed or rebuilt in any of the streets or public grounds of the city shall be constructed of concrete in accordance with plans and specifications as to material and methods of construction to be furnished by the city engineer.

(Code 1966, § 32-205)

Sec. 35-126. Maintenance required; removal and reconstruction.

Every driveway approach and recessed parking area shall be maintained and kept in a safe condition by the owner of the property served thereby, and any such driveway approach which shall not be so maintained and kept or which shall interfere with or obstruct the drainage carried by such street or the use of the street for the purpose of travel shall be repaired to conform with the specifications of this article and the rules, regulations and specifications of the city engineer or be removed.

The city engineer, or city clerk, after giving thirty (30) days' notice to the owner or his or her agent of the necessity therefor and failure of the property owner to perform said improvements may make all necessary repairs at any time. An account of the cost thereof shall be kept and reported to the governing body.

The city shall, by ordinance, levy a special assessment against the lot or piece of land so repaired for the cost of repairs, and if the abutting property owner does not pay the assessment within thirty (30) days, upon the city clerk mailing to the owner or his or her agent, if known, a printed or written notice of the amount of such repairs, the full amount shall be certified by the city clerk to the county clerk to be put on the tax rolls for collection like other taxes.

(Code 1966, § 32-133; Ord. No. 85-9106, § 1, 10-28-85)

Sec. 35-127. Compliance with article required.

In addition to the rules, regulations and specifications promulgated by the city engineer with respect to driveway approaches or sidewalks, the following requirements shall be complied with in the work done under the provisions of this article.

(Code 1966, § 32-141)

Sec. 35-128. Approaches to be paved.

All driveway approaches shall be paved.

(Code 1966, § 32-142)

Sec. 35-129. Where driveway approaches prohibited.

It shall be unlawful for any person to construct, alter or extend, or permit to cause to be constructed, altered or extended, any driveway approach which can be used only as a parking space or area between the curb and private property.

(Code 1966, § 32-129)

Sec. 35-130. Reserved.

Sec. 35-131. Location of driveway approach.

No portion of a driveway approach, including the curb return, shall be constructed within six and one-half (6 1/2) feet of a corner.

(Code 1966, § 32-159)

Sec. 35-132. Width of driveway approaches.

No driveway approach shall be less than eight (8) feet nor more than thirty (30) feet in width at the outside walk line; provided, that the city engineer shall be empowered to grant special exceptions to the above and foregoing limitations. The granting or denial of such special consent by the city engineer shall be predicated upon the calculated additional hazard to the general public as a consequence of allowing such exception in each particular case.

(Code 1966, § 32-156)

Sec. 35-133. Distance between driveway approaches.

There shall be not less than one curb parking space between any two (2) driveway approaches located on any parcel of land.

(Code 1966, § 32-157)

Sec. 35-134. Location of sidewalks.

- (a) Sidewalks shall be property-line sidewalks or curb sidewalks.
- (b) A property-line sidewalk is one whose inside edge is one (1) foot from the adjacent property line; or, in business districts, at the property line.
- (c) A curb sidewalk is one abutting the curb or curblin.
- (d) When a sidewalk exists on one side of a street between two (2) adjacent streets that cross or intersect it or in the case of a dead-end street, from the last street to the end of the dead-end street, all new sidewalk construction shall be located to conform with the existing sidewalk location.

(Code 1966, § 32-218)

Sec. 35-135. Protection of public; nonliability of city.

The owner and contractor shall protect the public from injury and/or damage during the construction of driveway approaches or sidewalks and it is herein stipulated as an essential condition of the issuance of a permit that the city shall not be liable for damage which may arise from the prosecution of the work.

(Code 1966, § 32-145)

Sec. 35-136. Exemption for contractors with city.

This article shall not apply to any person doing or performing any work of the nature herein described for the city under a contract with such city and for which regular performance, maintenance and statutory bonds are required by the city and furnished by the contractor for the specific work covered by any such contract.

(Code 1966, § 32-204)

Sec. 35-137. Procedure for sidewalks generally.

The procedure for the construction, reconstruction and repair of sidewalks shall be as provided by Article 18 of Chapter 12 of Kansas Statutes Annotated, and according to requirements specified by ordinance; provided, that nothing herein shall be construed as prohibiting the use of Article 6a, Chapter 12, Kansas Statutes Annotated.

(Code 1966, § 32-206)

Sec. 35-138. Procedure for sidewalks on petition of property owners.

- (a) Whenever a petition signed by persons owning not less than fifty (50) percent of the real estate abutting the proposed sidewalk construction paying for the construction of a sidewalk or sidewalks in the area proposed, is filed with the city clerk, the board of commissioners may, in its discretion, by resolution, order such sidewalk or sidewalks constructed.
- (b) The cost of all sidewalks constructed under the provisions of this section shall be assessed to the property abutting on such sidewalks.
- (c) When a sidewalk or sidewalks has or have been constructed and where special assessments must be levied for the expense thereof, the board of commissioners shall, as soon as the cost is ascertained, levy an assessment against the lots or pieces of land chargeable therefor, by ordinance, and the property owner shall have thirty (30) days after the publication of the ordinance within which to make full payment of the assessment. The city clerk shall mail a notice not less than fifteen (15) days

prior to the end of the thirty (30) days to the owner of the property as shown on the records of the office of the register of deeds, but failure of the owner to receive notice shall not affect the validity of the assessment. The board of commissioners may issue bonds in the manner provided in the general bond law to finance the unpaid balance of any such special assessments.

- (d) The assessment for construction of such sidewalks shall be levied as provided for in K.S.A. 12-1811, 12-1812 and 12-1814; provided, that temporary notes may be issued during the construction of such sidewalks and before the issuance of sidewalk bonds.

(Code 1966, § 32-207)

Sec. 35-139. Notice of completion of work; inspection; disapproval and correction; license revocation.

The contractor shall notify the city engineer of the completion of any work for which a permit has been issued hereunder. If the city engineer shall, upon inspection of any such completed work, find that such work has not been done in conformity with the plans and specifications for such work, the city engineer shall have the authority to order any changes in such work which may, in his opinion, be necessary, or may order the same removed and reconstructed. If any contractor shall fail to comply with any order of the city engineer in connection with any such work, the city engineer may issue an order revoking the license of such contractor, which order may, on application of the contractor filed with the city clerk within ten (10) days from the date of such order, be reviewed and approved or set aside by the board of commissioners.

(Code 1966, § 32-219)

Sec. 35-140. Violations.

Any person, whether acting for himself or as the agent, representative, employee, officer or member of any corporation or copartnership, who shall construct, reconstruct or rebuild any of the work mentioned in this article in violation of the provisions hereof or contrary to the plans and specifications for such work as provided for herein or who shall do any such work without securing a permit thereof as herein required, or who, when required by this article, shall do any such work without securing the license and filing the bond or bonds required by this article, or who shall otherwise violate any of the provisions of this article shall be deemed guilty of a misdemeanor.

(Code 1966, § 32-220)

Secs. 35-141--35-150. Reserved.

DIVISION 2. PERMIT

Sec. 35-151. Required.

No sidewalks, driveway approaches, curbing, guttering or any other concrete work in any street or public grounds in the city shall be constructed, reconstructed or rebuilt until a permit therefor shall have been issued by the city engineer, and shall be on such form as may be prescribed by the city, and any such plans and specifications referred to in this article shall be deemed to be a part of any such permit.

(Code 1966, § 32-117, 32-215; Ord. No. 96-9757, § 8-26-96)

Sec. 35-152. Fee.

The fee for issuance of a permit under this division shall be as prescribed in section 2.2.

(Code 1966, § 32-215)

Sec. 35-153. Contents of form.

The permit form shall contain information showing:

- (1) Type of construction;
- (2) The dimensions of the proposed driveway approach or proposed sidewalk;
- (3) The location of the driveway approach or sidewalk by lot and block number as well as by street and house number;
- (4) Such other information as may be required by the city engineer.

(Code 1966, § 32-119)

Sec. 35-154. Who must obtain permits.

The permit shall be obtained by the contractor or by the contractor's duly authorized agent desiring to construct the driveway approach or sidewalk.

(Code 1966, § 32-120; Ord. No. 96-9757, § 1, 8-26-96)

Sec. 35-155. Issuance.

Permits hereunder shall be issued by the city engineer if the city engineer has determined that the contractor has complied with the terms of this article and such rules, regulations and specifications of the city engineer as shall be on file in the office of the city engineer and in the office of the city clerk.

(Code 1966, § 32-121; Ord. No. 96-9757, § 1, 8-26-96)

Sec. 35-156. License, security prerequisite to permit.

No permit required by section 35-151 shall be issued to any person from whom a license and security is required until such license shall be issued and such security filed and approved.

(Code 1966, § 32-216; Ord. No. 96-9757, § 1, 8-26-96)

Sec. 35-157. Licensing.

No person shall engage in the work of constructing, reconstructing or rebuilding sidewalks, driveways, curbing, guttering or other concrete work in the streets, alleys or other public grounds in the city unless such person has been validly registered with the city as outline in Article XVII of Chapter 8.

(Code 1966, §§ 32-208, 32-209; Ord. No. 01-10064, § 3, 11-19-01)

Cross references: Licenses generally, Ch. 20.

Sec. 35-158. Security required.

Before a permit shall be issued by the city engineer, the registrant shall file with the city clerk's office a corporate surety bond as outlined in Article XVII of Chapter 8.

(Code 1966, §§ 32-125--32-127, 32-213, 32-214; Ord. No. 96-9757, § 1, 8-26-96; Ord. No. 01-10064, § 3, 11-19-01)

Sec. 35-159. Term.

The driveway approach or sidewalk shall be completed within one hundred twenty (120) days after the date of issuance of a permit hereunder.

(Code 1966, § 32-124)

Sec. 35-160. Revocation.

- (a) All permits granted for the use of public property under the terms of this division shall be revocable at the will of the board of commissioners.
- (b) A permit issued under the provisions of this division may be revoked by the city engineer at any time he is satisfied that the work is not being performed according to the provisions thereof.

(Code 1966, §§ 32-122, 32-123)

Secs. 35-161--35-175. Reserved.

ARTICLE VII. SERVICE PIPES AND SEWERS AHEAD OF PAVING

Sec. 35-176. Duty to lay.

It shall be the duty of the owner or owners of any lot or lots within the corporate limits of the city to construct and lay water service pipes, gas service pipes and sewers to the back of the curb abutting such lot or lots whenever ordered so to do by order, resolution or ordinance of the board of commissioners made in conformity to law; provided, that such water service pipes, gas service pipes and sewers shall not, by said board of commissioners, be ordered constructed or laid under the provisions of this article except in regard to property abutting upon streets upon which paving has been ordered; provided further, that the board of commissioners shall not order the laying or construction of more than one water service pipe, one gas service pipe or one sewer for each lot or fractional parts thereof along and abutting said paving, nor shall any service pipes or sewers be so ordered in any streets within the city where the mains for the same are not laid.

(Code 1966, § 32-231)

State law references: Authority to require, K.S.A.12-832.

Sec. 35-177. Notice by city required.

The board of commissioners shall give notice of any order to construct water service pipes, gas service pipes or sewers by publishing an order to such effect for three (3) consecutive days in the official city paper.

(Code 1966, § 32-232)

State law references: Similar provisions, K.S.A. 12-833.

Sec. 35-178. Laying by city; assessment of costs.

If the owner or owners of a lot or lots ordered to lay and construct pipes or sewers hereunder shall refuse or neglect to lay down or construct such water service pipes, gas service pipes or sewers within thirty (30) days from and after the last publication of such order, then the board of commissioners shall proceed to construct or cause to be constructed and laid such water service pipes, gas service pipes or

sewers in accordance with the provisions of law and the cost thereof shall be assessed against the lot or fractional parts thereof for which such service pipes or sewers are laid.

(Code 1966, § 32-233)

State law references: Similar provisions, K.S.A. 12-833.

Sec. 35-179. Certification, collection of assessments.

Assessments under this article shall be certified by the city clerk to the county clerk to be collected according to law in the same manner as paving assessments are collected.

(Code 1966, § 32-234)

State law references: Similar provisions, K.S.A. 12-833.

Sec. 35-180. Construction after expiration of deadline.

After the expiration of the time designated in an order for the construction of service pipes or sewers hereunder, then the owner or owners shall not construct or cause the same to be constructed, without first having written authority therefor from the board of commissioners.

(Code 1966, § 32-235)

Sec. 35-181. Compliance with ordinances, specifications.

The laying and construction of all service pipes and sewers as hereinbefore provided for shall be in accordance with all city ordinances regulating the same and shall be in accordance with the plans, specifications and requirements as provided for by ordinance or direction of the board of commissioners.

(Code 1966, § 32-236)

Secs. 35-182--35-200. Reserved.

ARTICLE VIII. EXCAVATIONS

Sec. 35-201. Permit required.

No person shall make any excavation in any street, alley or other public ground in the city for any purpose whatsoever, except excavations required for work under contract with the city for which usual performance and maintenance bonds are required, until he shall first secure from the city engineer a permit to make such excavation.

(Code 1966, § 32-247)

Sec. 35-202. Bond required; amount, terms.

No permit required by this article shall be granted until there shall be filed with the city clerk a bond to be given by the applicant as principal with good and sufficient sureties approved by the city manager, in the principal sum of not less than two thousand dollars (\$2,000.00), running to the city as obligee for the benefit of the city and any other person who may be injured by any violation of the conditions thereof, such bond to be conditioned for the faithful performance by the principal thereof of all work which may be done by him within the period covered by the bond under any permit which may be granted to him under the provisions of this article for the making of any excavation in any street, alley or other public

grounds in the city, and that all work done thereunder shall be done in strict conformity with all ordinances of the city relating to such work and in accordance with the plans and specifications of the city engineer relating thereto, and that the principal in such bond will indemnify and save harmless the city and all other persons against all costs, damages and injuries sustained by the city or by any other person whomsoever, by reason of the carelessness or neglect of the principal of said bond or his agents, servants, employees or representatives, either on account of their failure to comply with the provisions of this Code or the ordinances of the city relating to such work or with the rules and regulations adopted pursuant thereto or with any of the plans and specifications governing the performance thereof, or otherwise.

(Code 1966, § 32-250)

Sec. 35-203. Cancellation of bond.

No bond required by this article given by any person shall be cancelled nor shall the surety thereon be relieved from further liability under any such bond until he shall file with the city clerk a notice in writing at least ten (10) days prior to the date of the cancellation thereof, of the intention of the surety of its cancellation of liability under such bond and after the filing of such notice with the city clerk, no further permit shall be granted to the principal in any such bond so cancelled until a new bond shall have been filed and approved; provided, that no cancellation of any bond shall affect the liability of the principal or surety thereupon on any work done pursuant to any permit issued prior to the receipt of the notice of such cancellation.

(Code 1966, § 32-251)

Sec. 35-204. Filling, repair to be done by city.

The filling and tamping of all excavations and the repair of all pavements over any such excavation shall be done by the street department on order of the city engineer and in accordance with the specifications for such work prepared by the city engineer.

(Code 1966, § 32-253)

Sec. 35-205. Procedure for refilling, charging costs.

Upon notification by the city engineer that any excavation is to be refilled, the superintendent of streets shall, within twenty-four (24) hours, exclusive of Saturdays, Sundays and legal holidays, take charge of such excavation and shall refill the same and make all necessary paving repairs all in accordance with the plans and specifications of the city engineer, and shall certify to the city clerk the quantities of filling and paving repairs required; and the total charges as calculated from such quantities and the schedule of charges shall be charged against the person obtaining the permit for the excavation, and such person shall pay the amount due thereon to the city clerk immediately on demand.

(Code 1966, § 32-254)

Sec. 35-206. Special provisions for public service corporations.

The city engineer may permit any public service corporation to furnish labor and materials and refill excavations and repair pavements, but the permit required by this article shall be required in all cases and all such work shall be done strictly in accordance with the plans and specifications of the city engineer as herein provided for.

(Code 1966, § 32-255)

Sec. 35-207. Notice required when excavation ready for refilling; order to street department.

The party to whom any permit is issued under this article shall notify the city engineer when such party is ready for the excavation to be refilled. The city engineer shall note thereon the time of receipt of such notice and shall immediately order the street department to refill the excavation.

(Code 1966, § 32-256)

Sec. 35-208. Street department to assume jurisdiction; maintenance of barriers, etc.

The street department shall, within twenty-four (24) hours of the notice required above, exclusive of Saturdays, Sundays and legal holidays, take charge of such excavations and shall thereafter maintain the necessary barriers, barricades and lanterns until the refilling and repaving is completed and ready to open to traffic.

(Code 1966, § 32-257)

Sec. 35-209. Responsibility of permittee for barriers, etc.

The party to whom the permit is issued hereunder shall maintain all barriers, barricades and lanterns and shall be responsible for all damages or injuries arising from or incidental to such excavation until the same has been taken charge of by the street department as provided for above or until the expiration of twenty-four (24) hours, exclusive of Saturdays, Sundays and legal holidays, after the city engineer has received notice that the excavation is ready for refilling, and after the expiration of said twenty-four (24) hours, exclusive of Saturdays, Sundays and legal holidays, from the receipt of notice by the city engineer, the party making such excavation under any such permit shall not be liable in connection with any injuries which may be sustained in connection with such excavation except such as may result from defective work done by such person in connection with such excavation, or the actual negligence of such party.

(Code 1966, § 32-258)

Sec. 35-210. Safety precautions required; liability of permittee.

Every person to whom any permit is issued, as hereinbefore provided, shall enclose all excavations which he or they may make in the public streets, avenues or alleys with sufficient barriers and danger signals at all times, and must maintain sufficient warning lights at night, and must take all the necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same, and shall only make such excavations on condition that he is or they are liable for all damages that may result from the necessary prosecution against the city in consequence of any accident or accidents to persons, animals, vehicles, conduits or property of any kind, and such person, persons, company or corporation shall also be liable to the city on their bond for the same. Trenches or ditches in depth of six (6) feet or more, and in all trenches and ditches made in treacherous soil, or near buildings, the sides of said trenches or ditches shall be so braced as to prevent caving or injury to the adjoining premises; and the party excavating and his bondsmen shall be liable to said city for all damages arising by reason of neglect or carelessness in this respect.

(Code 1966, § 32-259)

Sec. 35-211. Disposition of money received.

All money received by the city to pay the cost of refilling excavations and repairing pavements shall be credited to the fund maintaining the street department.

(Code 1966, § 32-260)

Sec. 35-212. Condition of restored surface.

All paving, curbing, guttering or macadamizing shall be replaced and renewed in as perfect and substantial condition as before being disturbed.

(Code 1966, § 32-263)

Sec. 35-213. Qualifications of workmen.

All such paving, curbing, guttering and macadamizing shall be done by men who are experienced in such work and fully qualified to do the same in a proper and substantial manner.

(Code 1966, § 32-264)

Sec. 35-214. Duty to keep part of street or sidewalk available for use.

If possible, all parties making excavations under the provisions of this article in any of the streets, avenues, alleys or sidewalks of said city shall, at all times, be required to keep open in said streets, avenues, alleys and sidewalks good, sufficient, secure and unobstructed passageways for the safe passage of all vehicles and pedestrians.

(Code 1966, § 32-265)

Sec. 35-215. Plans, specifications.

The city engineer shall, from time to time, prepare standard plans and specifications for the making of excavations in the streets, alleys and other public grounds of the city and for the making of pavement cuts and for refilling and tamping the same and for repairing pavements, and shall be filed in the office of the city clerk and the city engineer, and it shall be a condition of any permit issued under this article that the person receiving the same shall comply in all respects with all such standard plans and specifications.

(Code 1966, § 32-266)

Sec. 35-216. Obedience to city engineer.

Any directions that may be given, either in writing or orally, by the city engineer, or any person entrusted with the supervision of such work, to any person engaged in making or refilling any excavation shall be immediately obeyed; and the violation of such directions, or the failure to perform the same, shall be deemed a misdemeanor.

(Code 1966, § 32-267)

Sec. 35-217. Violations.

It shall be unlawful for any person to make or attempt to make any excavation or refill the same, or do or attempt to do any other act in violation of the provisions of this article, or for any person to remove or attempt to remove from the site of the excavation or work any of the barricades, danger signals or lights required by the provisions of this article.

(Code 1966, § 32-268)

Secs. 35-218--35-230. Reserved.

ARTICLE IX. RAILROAD CROSSINGS²

Sec. 35-231. Duty to construct; manner of construction.

It shall be the duty of every company owning, managing or operating any railroad within the limits of the city which crosses any street, alley or highway or which traverses any such street, alley or highway within the city, to construct and keep in repair substantial and suitable crossings at each intersection of such railroad with such streets, alleys or highways, such crossings to be constructed in accordance with the plans and specifications as approved by the office of the city engineer. The company shall first file with the city clerk plans and specifications for the construction of such crossings, and obtain from the city manager permission to construct such crossings in accordance therewith.

(Code 1966, § 32-279)

Sec. 35-232. Waiver of construction requirements.

The city manager may waive the provisions of section 35-231 by written waiver as to any crossing which it is unnecessary to construct and maintain in accordance herewith on account of light traffic over such crossing, and a written waiver from the city manager as to any such crossing shall be good until such time as such waiver is revoked by the city manager or the board of commissioners, which may be done at any time. The city manager shall file with the city clerk a copy of all such waivers, and the city clerk shall keep them on file until they are revoked.

(Code 1966, § 32-280)

Secs. 35-233--35-250. Reserved.

ARTICLE X. SNOW AND ICE ON SIDEWALKS

Sec. 35-251. Declared nuisance.

All snow and ice remaining upon any sidewalks abutting on any lot, tract or piece of land twelve (12) hours after the snow has fallen or ice has accumulated are hereby declared to be a nuisance.

(Code 1966, § 32-302)

Cross references: Nuisances generally, Ch. 24.

Sec. 35-252. Duty to remove.

It is hereby made the duty of the owner, occupant or person in charge of any lot or piece of land abutting on any sidewalk to remove all snow and ice fallen or accumulated upon the sidewalk within twelve (12) hours after such snow has fallen or ice has accumulated.

(Code 1966, § 32-303)

² **Cross references:** Trains and railroads, § 38-116 et seq.

Sec. 35-253. Failure to remove.

It shall be unlawful for any owner, occupant or person in charge of any lot, tract or piece of land abutting on any sidewalk to fail to remove from such sidewalk any snow or ice within twelve (12) hours after the snow has fallen or ice has accumulated upon the sidewalks.

(Code 1966, § 32-304)

Sec. 35-254. Removal by city and assessment of costs.

The city manager is hereby authorized and empowered to cause the removal of snow and ice constituting a nuisance and to keep a true account of the cost of such removal and to report the cost as to each lot, tract or piece of land to the board of commissioners, and the board of commissioners shall pass an ordinance assessing the cost of such removal to the abutting lot, tract or piece of land, and such assessment shall be certified by the city clerk to the county clerk to be collected and paid over to the city in the same manner as other special assessments or taxes are collected and paid over to the city.

(Code 1966, § 32-305)

Sec. 35-255. Exception; snow accumulations from street snow removal.

The provisions of this article requiring removal of snow and ice from sidewalks, by the owner, occupant or person in charge of any lot, tract, or piece of land abutting on any sidewalk, shall not apply to any snow or ice accumulated on the sidewalk as the result of the city's efforts in removing snow from city streets.

(Ord. No. 88-9254, § 1, 6-13-88)