

**Construction of Flood Control Works by Cities**  
**K.S.A. 12-635 through 12-638 and 12-1616b**  
**2004**

**K.S.A. 12-635. Authorization of improvements within or without city limits; eminent domain; federal cooperation; agreements with watershed or drainage districts.** The governing body of any city of the state of Kansas in, near or through which flows a natural watercourse, the overflow from which, in the event of high water, is liable to cause injury to any bridge, street, alley or public or private property may, in order to prevent said injury, acquire by eminent domain in the manner prescribed by K.S.A. 26-501 to 26-516, inclusive, and amendments thereto, gift or purchase, within said city limits or within ten (10) miles therefrom, the land and easements necessary: (a) To construct drains, canals and artificial watercourses, (b) to widen and straighten existing drains and watercourses, (c) to construct the necessary levees and embankments, (d) to change and raise the grade of streets and alleys and the approaches to bridges, and raise said bridges, or construct bridges where necessary, (e) to widen existing drains, channels and canals, and acquire the necessary outlets therefor beyond the limits of the city, or (f) to cause any and all other necessary work, construction and improvements to be made to protect said city and public and private property therein located from floods and damage by overflow of said natural and artificial watercourses.

The governing body of any city proceeding under this act is hereby authorized: (a) To enter into contracts or agreements with the United States army corps of engineers or any other agency or agencies of the federal government that may be necessary in order to cooperate with the federal government and its agencies; and such contract or agreement shall provide that the city will maintain, repair and operate the flood control works; (b) to enter into contracts or agreements to furnish all of the necessary lands, rights-of-way and easements without cost to the federal government; (c) to enter into contracts or agreements relieving the federal government from any liability and damage to persons or property resulting from construction of the flood control works or resulting after the completion thereof; (d) to enter into contracts or agreements with watershed or drainage districts that may be necessary in order to cooperate with such watershed or drainage districts in matters relating to flood control and drainage. No provision of this act shall be construed to affect the power of drainage districts now organized under the provisions of chapter 24, of the Kansas Statutes Annotated, and amendments thereto. **(History:** L. 1917, ch. 87, § 1; R.S. 1923, § 12-635; L. 1925, ch. 95, § 1; L. 1929, ch. 107, § 1; L. 1937, ch. 114, § 1; L. 1943, ch. 86, § 1; L. 1947, ch. 109, § 1; L. 1953, ch. 61, § 1; L. 1963, ch. 234, § 21; L. 1978, ch. 57, § 1; March 28.)

**K.S.A. 12-636. Same; resolution; engineer's estimate and report.** Before making the improvements mentioned in K.S.A. 12-635 and amendments thereto, the governing body of the city, by resolution duly passed, shall declare it necessary for the public good and convenience that the property described in the resolution be protected from the overflow of the watercourse and shall require a competent engineer to make a survey thereof and file the same with the city clerk of the city with maps and profiles of the survey and a full and complete plan of protecting the property from the overflow or damage by water of the watercourse and also the physical characteristics and location of any right-of-way, roadbed, bridge or bridges, streets and alleys and other property liable to be injured or damaged by the overflow of the watercourse. The engineer shall also make an estimate of the cost of the entire work and improvement required to

protect the property, showing the several items of the same. The engineer shall inspect and examine all lots and buildings thereon, rights-of-way, roadbeds, bridges, culverts, depot grounds, grades, streets, and all railroads, telephone and telegraph and other property liable to be injured or damaged by the overflow of the watercourse. The engineer shall file a report, in duplicate, with the city clerk. Upon the approval of engineer's report by the governing body of the city, the city clerk of the city shall immediately cause one copy of the engineer's report to be filed with the chief engineer of the division of water resources of the Kansas department of agriculture. **(History:** L. 1917, ch. 87, § 2; R.S. 1923, § 12-636; L. 1995, ch. 116, § 1; L. 2004, ch. 101, § 61; July 1.)

**K.S.A. 12-637. Same; review of engineer's report by chief engineer; approval or disapproval.** Upon the city's filing a report with the chief engineer pursuant to K.S.A. 12-636 and amendments thereto, the chief engineer shall carefully examine the report and, if the chief engineer determines it necessary, shall make a personal investigation as to the location of the contemplated improvements, the costs of making the improvements and whether the improvements will accomplish the purpose for which they are intended. The chief engineer shall then approve or disapprove the report and immediately notify the city engineer of the approval or disapproval. **(History:** L. 1917, ch. 87, § 3; R.S. 1923, § 12-637; L. 1995, ch. 116, § 2; July 1.)

**K.S.A. 12-638. Same; eminent domain proceedings; advertising for bids.** Upon the approval of the engineer's report by the governing body of the city and the division of water resources, the governing body of the city, if property is to be condemned, shall proceed to exercise the power of eminent domain in accordance with K.S.A. 26-501 through 26-516, and amendments thereto, and shall have the right to advertise for bids and enter into a contract for the improvements. Whenever a contract or agreement has been entered into by the United States army corps of engineers or any other federal agency or agencies and the city, or by a watershed or drainage district and the city, or the federal agency or agencies or a watershed or drainage district is willing to enter into the contract with the governing body of the city, for the construction of flood control improvements, the governing body of the city shall not be required to advertise for bids for the construction of the flood control works. **(History:** L. 1917, ch. 87, § 4; R.S. 1923, § 12-638; L. 1947, ch. 109, § 2; L. 1953, ch. 61, § 2; L. 1963, ch. 234, § 22; L. 1978, ch. 57, § 2; L. 1995, ch. 116, § 3; July 1.)

**K.S.A. 12-1616b. Same; approval of plans by chief engineer before bonds issued.** The governing body of any such city shall be the sole judge of the location, size, type of construction and all other details of any such dams subject only to the approval of the plans and specifications for such dams by the chief engineer, division of water resources, which approval shall be obtained before the issuance of any bonds as are hereinafter provided for. **(History:** L. 1974, ch. 50, § 2; July 1.)