

FILE

Subject

*Cities - Ordinances
Enactment & Enforcement*



Copy to

STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

February 13, 1974

Opinion No. 74- 54

Daniel F. Meara
Assistant City Attorney
One East Third Street
Fort Scott, Kansas 66701

Dear Mr. Meara:

As Assistant City Attorney for the City of Fort Scott, you advise that the city recently conducted a personnel study of its employees with the assistance of the League of Kansas Municipalities. As a result of this study, the city now wishes to enact a new and rather lengthy personnel ordinance. The question arises whether such an ordinance could be enacted by reference. It is proposed to reproduce approximately 100 copies of the ordinance with an office copying machine, bind it in pamphlet form, and then enact it under K.S.A. 12-3010.

K.S.A. 12-3009 states in pertinent part thus:

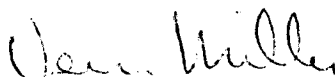
"Any city is hereby authorized and empowered to incorporate in an ordinance by reference, in the manner hereinafter provided, any standard or model code or ordinance, regulation having the effect of law of a state officer, board or other agency, or statute, or portions thereof on any subject on which a city may legislate, which standard or model code or ordinance or state regulation is available in book or pamphlet form"

You properly question whether the proposed personnel ordinance is suitable for enactment by reference. Under the foregoing statute, insofar as pertinent here, only a "standard or model code ordinance" may be enacted by reference. A proposed ordinance does not become a "standard or model" ordinance merely by being printed in pamphlet form. Such a standard or model ordinance or code is one at the least which is generally recog-

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nized by either state or national authorities as a standard or model promulgated or recommended for adoption as a generally uniform code or ordinance by governing bodies throughout the state or in many states. Judging from your letter, it is most unlikely that a personnel ordinance prepared specifically for the city after an extended study of its specific personnel matters and tailored specifically to the needs of Fort Scott constitutes a "model" or "standard" code. Your reading of K.S.A. 12-3009 is not, in our view, at all restrictive, and we concur in your objections to the proposed procedure.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm