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Subject *Cities - Ordinances*
Enactment & Enforcement

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STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

February 11, 1974

Opinion No. 74- 51

Mr. David C. All
Gaines and All
Attorneys at Law
Suite 3
Fifth Avenue Building
Augusta, Kansas 67010

Dear Mr. All:

You inquire concerning K.S.A. 12-3009, which 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 advise that several years ago the City of Hutchinson adopted a somewhat comprehensive ordinance defining crimes and punishments, in large part paralleling the state criminal code. The City of Rose Hill now wishes to adopt by reference portions of that code, referring to it as "the Hutchinson Code," a procedure followed some time ago by the City of Augusta.

You question whether the criminal code of Hutchinson, Kansas, may be considered a standard or model code or ordinance which may be adopted by reference under K.S.A. 12-3009. There exists, apparently, a misconception that any lengthy proposed code or ordinance becomes a "standard or model" code or ordinance merely by being printed in pamphlet form. It does not. A standard or model code or ordinance is, at the least, one which is prepared

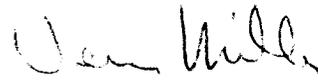
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and made available as precisely that, a model or standard code or ordinance made available for consideration and adoption by any legislative body dealing with the subject matter in question. Such a standard or model code generally deals with specific, often technical, subject matter, and is usually prepared and recommended by an organization of national or statewide prominence having generally recognized expertise or professional competence dealing with the subject matter involved.

The ordinance of one city does not, however, merely by virtue of its enactment there, become thereby a "standard or model" ordinance for other cities. K.S.A. 12-3009 does not authorize incorporation by reference of any ordinance which happens to have been previously enacted by another city. It authorizes only incorporation by reference of "standard" or "model" codes or ordinances. No information which we have suggests that the "Hutchinson Code" is a "standard" or "model" ordinance. Indeed, so far as our present information suggests, it was prepared, drafted and adopted specifically for and by the City of Hutchinson.

Accordingly, we cannot but conclude that K.S.A. 12-3009 does not authorize the adoption of the ordinance in question by incorporation by reference. That statute is not satisfied merely by preparing an ordinance in printed or pamphlet form.

Very truly yours,



VERN MILLER
Attorney General

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