



2019

**Manual of Procedure for
Incorporating by Reference the**

**Uniform Public Offense Code
For Kansas Cities**

Prepared and Published by
The League of Kansas Municipalities
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MANUAL OF PROCEDURE
FOR
INCORPORATING BY REFERENCE

THE UNIFORM PUBLIC OFFENSE CODE
FOR KANSAS CITIES

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or standard codes or ordinances
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THE LEAGUE OF KANSAS MUNICIPALITIES

300 SW 8th Avenue
Topeka, Kansas 66603

July 2019

PART I

INCORPORATION BY REFERENCE

K.S.A. 12-3009 et seq. allows a city to incorporate in an ordinance by reference the Uniform Public Offense Code (UPOC). This is done by passing and publishing an ordinance (called the incorporating ordinance), which contains a statement that a certain publication, in this case the UPOC, described by title, publisher, compiler, and edition, is "incorporated by reference." The effect of these magic words is that the provisions of the UPOC becomes as much a part of the incorporating ordinance as if they had been set out in full. The entire UPOC does not have to be published. It is necessary only to pass and publish the incorporating ordinance. See K.S.A. 12-3009 through K.S.A. 12-3012.

OMISSIONS, CHANGES, OR ADDITIONS: It is not necessary for all the provisions contained in the publication be incorporated by reference. Various portions of the publication may be omitted by a statement in the incorporating ordinance that the particular article, section, or portion thereof is being omitted. Additionally, language of particular sections may be changed and additional provisions may be added to meet local conditions. Any provisions changing or adding to the incorporated provisions must be stated in full and published as part of the incorporating ordinance. If omissions, changes, or additions are to be made after the incorporating ordinance has been passed and published, they may be made by enacting an ordinance amending the incorporating ordinance.

While this pamphlet provides information on incorporating by reference the Uniform Public Offense Code for Kansas Cities, the same general procedure applies for incorporating by reference uniform or model codes or ordinances on such subjects as traffic, building, plumbing, electrical wiring, gas piping, health and sanitation, or any other compilation of rules, regulations, or laws embracing a subject on which a city may properly legislate by ordinance.

The statutes that authorize and prescribe the procedure for incorporation by reference are K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302.

OFFICIAL COPIES: Any standard or model code or ordinance incorporated by reference must be stamped or marked as follows: OFFICIAL COPY AS INCORPORATED BY ORDINANCE NO. _____. A copy of the published incorporating ordinance must be attached to each official copy.

MARKING OUT OMITTED PROVISIONS: All articles, sections, or portions of the UPOC intended to be omitted by the City must be marked to show such omission.

PUBLIC INSPECTION: One official copy of the incorporated publication must be kept on file by the city clerk and open to the public for inspection.

FURNISHING OF OFFICIAL COPIES: The police department, the municipal judge, and all administrative departments charged with enforcement of any standard or model code incorporated must be supplied with such number of official copies as may be deemed expedient.

PART II

MODEL ORDINANCE INCORPORATING
THE UNIFORM PUBLIC OFFENSE CODE
BY REFERENCE

(Published _____, 20__)

ORDINANCE NO. _____

An ordinance regulating public offenses within the corporate limits of the City of _____, Kansas; incorporating by reference the Uniform Public Offense Code for Kansas Cities, edition of 2019, ***with certain omissions, changes, and additions; prescribing additional regulations;** providing certain penalties and repealing ordinances numbered _____.

Be it Ordained by the Governing Body of the City of _____:

Section 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of _____, Kansas, that certain code known as the Uniform Public Offense Code, Edition of 2019, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, ***save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified, or changed.** One official copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. _____," ***with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change** and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

*NOTE: If no omissions or changes are made or no sections added, the words in bold print should be omitted. If any article or section or portion thereof is to be omitted, or any section changed, or any additional regulations added, sections providing for the same should be inserted here. For examples of such sections see the forms shown in Part III.

Section _____. **Repeal.** Ordinance(s) number _____ and _____ are repealed.

Section _____. **Effective Date.** This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the (Council) (Commission) the ____ day of _____, 20_____.

(Approved) (Signed) by the mayor this ____ day of _____, 20_____.

ATTEST: _____, City Clerk _____, Mayor

(SEAL)

NOTE: A penalty section is not required in the incorporating ordinance because penalty provisions are contained in the *Uniform Public Offense Code*.

PART III

FORMS OF SECTIONS FOR OMITTING, ADDING, OR CHANGING PROVISIONS OF THE UNIFORM PUBLIC OFFENSE CODE

OMITTING PROVISIONS: The governing body may decide to omit certain sections. If any section or portion thereof is omitted by the incorporating ordinance or by a later ordinance amending the incorporating ordinance, the official copies of the Uniform Public Offense Code must be marked to show such omission.

The following form may be used to omit a section.

Section ____: Section ____ (or subsection ____ of Section ____) of the Uniform Public Offense Code relating to ____ is hereby omitted and deleted.

ADDING PROVISIONS: Additional public offenses necessary to meet local conditions may also be added to the Uniform Public Offense Code after passing the incorporating ordinance by enactment of an ordinance amending the incorporating ordinance.

The following form may be used to add a section.

Section ____: Article ____ of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

Section _____. (Here insert new section)

CHANGING PROVISIONS: The language of a section or portion thereof may be changed. If a change is made **the section as changed must be shown in full** in the incorporating ordinance or in a later ordinance amending the incorporating ordinance.

Caution should be exercised in changing the language of any provision of the Uniform Public Offense Code that has a statutory citation in parenthesis at the end so as not to cause a conflict with the state criminal statutes. Advice from the city attorney should be obtained before changing the elements of offenses or the penalty provisions of offenses defined by state statute.

The following form may be used to change a section.

Section ____: Section ____ of the Uniform Public Offense Code is hereby amended to read as follows: (Here insert complete section as amended).





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