

ORDINANCE NO. 26-XX

AN ORDINANCE PERTAINING TO THE OLATHE PUBLIC OFFENSE CODE; CREATING NEW SECTIONS 9.08.035, 9.10.050, AND 9.12.260; AMENDING SECTIONS 9.01.110, 9.06.010, 9.07.010, 9.07.170, 9.08.030, 9.08.160, 9.09.010, 9.10.020, AND 9.11.100, AND REPEALING THE EXISTING SECTIONS; ALSO REPEALING EXISTING SECTIONS 9.05.080, 9.16.010, 9.16.020, AND 9.16.030.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 9.01.110 of the Olathe Municipal Code is hereby amended to read as follows:

“9.01.110 General Definitions.

The following definitions shall apply when the words and phrases defined are used in this title, except when a particular context clearly requires a different meaning:

“Act” shall also include a failure or omission to take action.

“Air gun or rifle” means any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any pellet, BB shot, or other projectile reasonably expected to cause bodily harm or property damage, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

“Alcohol concentration” means the number of grams of alcohol per one hundred (100) milliliters of blood or per two hundred ten (210) liters of breath.

“Alcohol without liquid machine” means a device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes.

“Alcoholic liquor” or “alcoholic beverage” means includes the four (4) varieties of liquor, namely alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer capable of being consumed as a beverage by a human being, but shall not include cereal malt beverages.

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“Animal” means any live, vertebrate creature, domestic or wild, other than humans.

“Another” means a person or persons as defined in this title other than the person whose act is claimed to be an offense.

~~“Audiovisual recording function” means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.~~

“Beer” means a beverage, containing more than three and two-tenths percent (3.2%) percent alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

“Body piercing” means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting jewelry or other objects in or through the human body, except puncturing the external part of the human ear shall not be included in this definition.

~~“Cardholder” means the person or entity to whom or for whose benefit a financial card is issued.~~

“Caterer” means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

“Cereal malt beverage” means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt substitute, but does not include any such liquor which is more than three and two-tenths percent (3.2%) alcohol by weight.

“Cigarette” means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

“City” or “this City” means the City of Olathe, Kansas, and all land and water within the corporate limits of the City of Olathe and the air space above such land and water.

“City or county correctional officer or employee” means any correctional officer or employee of the City or county or any independent contractor, or

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any employee of such contractor, working at a City holding facility or county jail facility.

“Conduct” means an act or series of acts, and the accompanying mental state.

“Conviction” means a judgment of guilt entered upon a plea or finding of guilty.

“Court appointed guardian” means one who is appointed by a court and has legal authority and duty to care for another person, especially because of the other’s infancy, incapacity or disability.

“Deception” means knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person’s intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.

“Deprive permanently” means:

- (1) To take from the owner the possession, use or benefit of his or her property without an intent to restore the same; or
- (2) To retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
- (3) To sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

“Distribute” means the actual or constructive transfer from one ~~(1)~~ person to another of some item whether or not there is an agency relationship. “Distribute” includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one ~~(1)~~ person to another. “Distribute” does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the State of Kansas, the Uniform Controlled Substances Act, or otherwise authorized by law.

“Drinking establishment” means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. “Drinking establishment” includes a railway car.

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“Dwelling” means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.

“Dwelling unit” means a single-family residence, multiple-family residence and each living unit in a mixed-use building.

“Electronic cigarette” means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine or tetrahydrocannabinol (THC) by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

“Equine” means a horse, pony, mule, jenny, donkey or hinny.

“Farm animal” means an animal raised on a farm or ranch and used or intended for use as food or fiber.

~~“Financial card” means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions.~~

“Fire department” means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

“Firearm” means any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.

“Funeral” means the ceremonies, processions, and memorial services held in connection with the burial or cremation of a person.

“Gamecock” means a domesticated fowl that is reared or trained for the purpose of fighting with other fowl.

“Health care facility” means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

“Health care provider” means any person:

- (1) Licensed to practice a branch of the healing arts;
- (2) Licensed to practice psychology;

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- (3) Licensed to practice professional or practical nursing;
- (4) Licensed to practice dentistry;
- (5) Licensed to practice optometry;
- (6) Licensed to practice pharmacy;
- (7) Registered to practice podiatry;
- (8) Licensed as a social worker; or
- (9) Registered to practice physical therapy.

“Identification document” means any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be driver’s licenses, nondriver’s identification cards, birth certificates, social security cards and employee identification cards.

“Intent to defraud” means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

“Juvenile detention facility officer or employee” means any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto.

~~“Knife” means a cutting instrument, including a sharpened or pointed blade, a dagger, dirk, switchblade, stiletto, straight edged razor or any other dangerous or deadly cutting instrument of like character.~~

“Law enforcement officer” means:

- (1) Any person who by virtue of such person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses whether that duty extends to all offenses or is limited to specific offenses;
- (2) Any officer of the Kansas Department of Corrections or, for the purposes of Section 9.04.020, any employee of the Kansas Department of Corrections; or
- (3) Any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

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“Maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

“Motion picture theater” means a movie theater, screening room or other venue when used primarily for the exhibition of a motion picture.

“Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

“Motorboat” means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

“Obtain” means to bring about a transfer of interest in or possession of property, whether to the offender or to another.

“Obtains or exerts control over property” includes, but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, interest in or possession of property.

“Ordinance cigarette or tobacco infraction” means a violation of an ordinance that proscribes the same behavior as proscribed by K.S.A. 79-3321(m) or (n) and amendments thereto.

“Owner” means a person who has an interest in property.

“Paintball gun” means any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any paintball, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

“Person” means an individual, public or private corporation, government, partnership, or unincorporated association.

“Personal property” means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

“Police dog” means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

“Possession” means knowingly having joint or exclusive control over an item or knowingly keeping some item in a place where the person has some measure of access and right of control.

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“Private place” means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

“Property” means anything of value, tangible or intangible, real or personal.

“Prosecution” means all legal proceedings by which a person’s liability for an offense is determined.

“Public employee” means a person employed by or acting for the State or the City or by or for a county, another municipality or other subdivision or governmental instrumentality of the State for the purpose of exercising their respective powers and performing their respective duties, and who is not a public officer.

“Public offense” or “offense” means an act or omission defined by this title which, upon conviction, is punishable by fine, confinement or both fine and confinement.

“Public officer” means includes the following, whether elected or appointed:

- (1) An executive or administrative officer of the City or of the State, or a county, another municipality or other subdivision or governmental instrumentality of or within the State.
- (2) A member of the legislature or the governing body or of a governing board of a county, municipality, or other subdivision of or within the City or State.
- (3) A judicial officer, which shall include a judge of the district or municipal court, juror, master or any other person appointed by a judge or court, to hear or determine a cause or controversy.
- (4) A hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer.
- (5) A law enforcement officer.
- (6) Any other person exercising the functions of a public officer under color of right or law.

“Railroad property” includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company.

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“Real property” or “real estate” means every estate, interest and right in lands, tenements and hereditaments.

“Retail dealer” means a person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer.

“Runaway” means a child under eighteen (18) years of age who is voluntarily absent from:

- (1) The child’s home without the consent of the child’s parent or other custodian; or
- (2) A court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person’s designee.

“Sailboard” means a surfboard using for propulsion with a free sail system comprising one (1) or more swivel-mounted rigs (mast, sail and booms), supported in an upright position by the crew and the wind.

“Sailboat” means any vessel, other than a sailboard, that is designed to be propelled by wind action upon a sail for navigation on the water.

“Sample” means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

“School employee” means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12.

“Scrap metal dealer” means any person that operates a business out of a fixed location, and that is also either:

- (1) Engaged in the business of buying and dealing in regulated scrap metal;
- (2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
- (3) Operating, carrying on, conducting, or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale, or transfer.

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“Sexual intercourse” means any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. “Sexual intercourse” does not include penetration of the female sex organ by a finger or object in the course of the performance of:

- (1) Generally recognized health care practices; or
- (2) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

“Smoke detector” means a device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory.

“Sodomy” means oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. “Sodomy” does not include penetration of the anal opening by a finger or object in the course of the performance of:

- (1) Generally recognized health care practices; or
- (2) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

“Solicit” or “solicitation” means to command, authorize, urge, incite, request or advise another to commit an offense.

“Spouse” means a lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the Protection from Abuse Act.

“State” or “this state” means the State of Kansas and all land and water in respect to which the State of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water.

“State correctional officer or employee” means any officer or employee of the Kansas Department of Corrections or any independent contractor, or any employee of such contractor, working at a correctional institution.

“Stolen property” means property over which control has been obtained by theft.

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“Tattooing” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

“Telecommunications device” includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto.

“Telefacsimile communication” means the use of electronic equipment to send or transmit a copy of a document via telephone line.

“Temporary permit” means a temporary permit issued pursuant to K.S.A. 41-2645 and amendments thereto.

“Threat” means a communicated intent to inflict physical or other harm on any person or on property.

“Throwing star” means any instrument, without handles, consisting of a metal plate having three (3) or more radiating points with one (1) or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape, manufactured for use as a weapon for throwing.

“Tobacco products” means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. “Tobacco products” does not include cigarettes.

“Toxic vapors” means vapors from the following substances or products containing such substances:

- (1) Alcohols, including, but not limited to, methyl, isopropyl, propyl, or butyl;
- (2) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
- (3) Acetone;
- (4) Benzene;
- (5) Carbon tetrachloride;

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- (6) Cyclohexane;
- (7) Freons, including, but not limited to, freon-11, freon-12, and other halogenated hydrocarbons;
- (8) Hexane;
- (9) Methyl ethyl ketone;
- (10) Methyl isobutyl ketone;
- (11) Naphtha;
- (12) Perchloroethylene;
- (13) Toluene;
- (14) Trichloroethane; or
- (15) Xylene.

“Unlawful sexual act” means any lewd and lascivious behavior or sexual battery as defined in this title.

“Vessel” means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

“Wildlife” means any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. “Wildlife” does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl).

“Written instrument” means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.”

SECTION TWO: Section 9.06.010 of the Olathe Municipal Code is hereby amended to read as follows:

“9.06.010 Endangering a Child.

(1) Endangering a child is ~~intentionally~~ knowingly and unreasonably causing or permitting a child at least six (6) years of age but less than ~~under the age of~~ eighteen (18) years of age to be placed in a situation in which the child's life, body, or health may be injured or endangered.

(2) Nothing in this section shall be construed to mean a child is endangered for the sole reason that the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(3) Endangering a child is a Class A Public Offense.”

SECTION THREE: Section 9.07.010 of the Olathe Municipal Code is hereby amended to read as follows:

“9.07.010 Theft.

~~“Theft”~~ Theft is any of the following acts done with the intent to deprive the owner permanently of the possession, use or benefit of the owner's property or services:

- A. Obtaining or exerting unauthorized control over property or services;
- B. Obtaining by deception control over property or services;
- C. Obtaining by threat control over property or services;
- D. Obtaining control over stolen property or services knowing , or having reason to know, the property or services ~~to have been~~ were stolen ~~by~~ from another;
- E. Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel; or

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F. Obtaining services by coercion, stealth, mechanical tampering, or use of false token or device.

G. Theft of property or services of the value of less than one thousand five hundred dollars (\$1,500.00) is a Class A public offense except:

1. When the theft is of property or services of the value of at least Fifty Dollars (\$50.00) but less than one thousand five hundred dollars (\$1,500.00) if committed by a person who has, within five (5) years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two (2) or more times;

2. When the theft is of property or services of the value of less than one thousand five hundred dollars (\$1,500.00) from three (3) separate mercantile establishments within a period of seventy-two (72) hours as part of the same act or transaction or in two (2) or more acts or transactions connected together or constituting parts of a common scheme or course of conduct;

3. When the theft is of property which is a firearm; ~~or~~

4. When the theft is of property that is mail of the value of less than one thousand five hundred dollars (\$1,500.00) from three (3) separate locations within a period of seventy-two (72) hours as part of the same act or transaction or in two (2) or more acts or transactions connected together or constituting parts of a common scheme or course of conduct;

5. When the theft is of property that is livestock, an implement of husbandry, grain, or hay; or

6. When the theft is of property that is a motor vehicle of the value of at least \$500 but less than \$1,500.

In such cases theft is a felony under state statutes and will be referred to the appropriate prosecuting authority.

H. Nothing herein shall prohibit the removal in a lawful manner, by towing or otherwise, of personal property unlawfully placed or left upon real property.

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I. In any prosecution under this section, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, telephone service or cable television service shall be prima facie evidence of intent to violate the provisions of this section by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, telephone service or cable television service which has not been authorized or measured.

J. As used in this section:

1. "Convicted" includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;

2. "Grain" means at least 400 bushels of:

(A) Barley, corn, flaxseed, oats, rye, sorghum, soybeans, or wheat;

(B) Any other food grains, feed grains, and oilseeds subject to standards under 7 U.S.A. Ch. 3, as in effect on July 1, 2026; or

(C) Any mix of the above;

3. "Hay" means at least 20,000 pounds of alfalfa, brome, clover, or prairie hays or all other grasses or plants that are harvested for forage;

4. "Implement of husbandry" means the same as defined in K.S.A. 8-126, and amendments thereto;

5. "Livestock" means cattle or horses;

6. "Mail" means a letter, postal card, package or bag sent through the United States Postal Service or other delivery service, or any other article or thing contained therein;

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~~3.~~ 7. “Regulated scrap metal” means the same as defined in K.S.A. 50-6,109, and amendments thereto;

~~4.~~ 8. “Remote service unit” means the same as defined in K.S.A. 9-1111, and amendments thereto, and includes, but is not limited to, automated cash dispensing machines and automated teller machines;

~~5.~~ 9. “Services” within the meaning of this section includes, but is not limited to, labor, professional service, cable television service, public or municipal utility or transportation service, telephone service, lodging, entertainment and the supplying of equipment for use;

~~6.~~ 10. “Tampering” within the meaning of this section includes but is not limited to:

(a) Making a connection of any wire, conduit or device, to any service or transportation line owned by a public or municipal utility, or by a cable television provider;

(b) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, telephone service or cable television services;

(c) Preventing any such meters from properly measuring or registering;

(d) Knowingly taking, receiving, using or converting to such person’s own use, or the use of another, any electricity, or natural gas, which has not been measured; or any telephone or cable television service which has not been authorized; or

(e) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts; and

~~7.~~ 11. “Value” means the value of the property or, if the property is regulated scrap metal or a remote service unit, the cost to restore the site of the theft of such regulated scrap metal or remote service

unit to its condition at the time immediately prior to the theft of such regulated scrap metal or remote service unit, whichever is greater.”

SECTION FOUR: Section 9.07.170 of the Olathe Municipal Code is hereby amended to read as follows:

“9.07.170 Criminal Use of a Financial Card.

A. Criminal use of a financial card or gift card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, ~~services~~ or ~~communication~~ services, ~~other than the telecommunication services as defined by K.S.A. 21-3745 and amendments thereto:~~

1. Using a financial card without the consent of the cardholder; ~~or~~
2. knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; ~~or~~
3. using a falsified, mutilated, altered, or nonexistent financial card or a number or description thereof;
4. acquiring or retaining possession of a gift card or gift card redemption information without the consent of the cardholder, gift card issuer, or gift card seller; or
5. altering or tampering with a gift card.

B. For the purposes of Subsection A.2. hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

C. Criminal use of a financial card or gift card is a Class A Public Offense if the money, goods, property, ~~services~~ or ~~communication~~ services obtained within a seven-day period is of value of less than One Thousand Dollars (\$1,000.00).

D. As used in this section:

1. "Cardholder" means:

A. The person or entity to whom or for whose benefit a financial card is issued; or

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B. the person to whom a physical or virtual gift card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a gift card to another person;

2. "closed-loop gift card" means a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants;

3. "financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions;

4. "gift card" means a physical or digital closed-loop gift card or open-loop gift card that is either activated or inactivated;

5. "gift card issuer" means any person that issues a gift card or the agent of that person with respect to such card;

6. "gift card redemption information" means information unique to each gift card that allows the cardholder to access, transfer or spend the funds on such gift card;

7. "gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers; and

8. "open-loop gift card" means a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network."

SECTION FIVE: Section 9.08.030 of the Olathe Municipal Code is hereby amended to read as follows:

"9.08.030 Interference With Law Enforcement.

(A) Interference with law enforcement is:

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~~A.~~ (1) Falsely reporting to a law enforcement officer, law enforcement agency or State investigative agency:

~~1.~~ (a) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; ~~or~~

~~2.~~ (b) That a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; ~~or~~

~~3.~~ (c) Any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; ~~or~~

~~4.~~ (d) Any information for the purpose of hindering the apprehension, prosecution, conviction or punishment of any person for a crime; or

~~5.~~ (e) That a crime has been committed or any information concerning a crime or suspected crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

~~B.~~ (2) Concealing, materially altering or destroying evidence or tampering with a witness, informant, document or other source of information, regardless of its admissibility in evidence with the intent to prevent or hinder the apprehension, prosecution, conviction or punishment of any person; ~~or~~

~~C.~~ (3) Knowingly ~~and willfully~~ obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty, and such act substantially hindered or increased the burden of the person in the performance of the person's official duty; ~~or~~

~~D.~~ (4) Knowingly ~~and willfully~~ obstructing, resisting or opposing any properly identified law enforcement officer in the discharge of any official duty or investigation, and such act substantially hindered or increased the burden of the officer in the performance of the officer's official duty; ~~or~~

~~E.~~ (5) Providing a false name, address, birth date, driver's license or other identification document to a law enforcement officer engaged in the discharge of any official duty or investigation; ~~or~~ or

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~~F.~~ (6) Knowingly ~~and willfully~~ fleeing from a law enforcement officer, other than fleeing by operation of a motor vehicle, when the law enforcement officer has:

1. Reason to stop the person under K.S.A. 22-2402, and amendments thereto; and
2. Given the person visual or audible signal to stop.

~~G.~~ (B) Interference with law enforcement is a Class A public offense.

(C) As used in this Section:

(1) "Any person authorized by law" includes, but is not limited to, a law enforcement officer as defined in paragraph (2); and

(2) "Law enforcement officer" means the same as defined in Section 9.10.110, and includes any federal law enforcement officer as defined in 5 U.S.C. § 8401 or 6 U.S.C. § 271.

(D) Nothing in this Section shall grant law enforcement authority to a federal law enforcement officer."

NEW SECTION SIX: Section 9.08.035 is hereby added to the Olathe Municipal Code to read as follows:

"9.08.035 Unlawful Approach of a First Responder.

(A) Unlawful approach of a first responder is knowingly:

- (1) Approaching or remaining within 25 feet of an individual whom the person knows or reasonably should have known is a first responder;
- (2) While such first responder is engaged in the performance of such first responder's duties;
- (3) After receiving a visual or audible signal not to approach or remain within 25 feet of such first responder given by a first responder because of a reasonable belief, under the totality of the circumstances, that separation is necessary for the safety of any person or property; and

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(4) Causing such first responder to: (a) be distracted from performing such first responder's duties; or (b) have an increased level of concern of physical harm to any person or damage to property.

(B) Unlawful approach of a first responder is a Class B Public Offense.

(C) As used in this section:

(1) "First responder" means a law enforcement officer, an emergency medical services provider, or a firefighter; and

(2) "Law enforcement officer" means a law enforcement officer as defined in K.S.A. 21-5111, and amendments thereto, and any federal law enforcement officer.

(D) Nothing in this section shall grant law enforcement authority to a federal law enforcement officer."

SECTION SEVEN: Section 9.08.160 of the Olathe Municipal Code is hereby amended to read as follows:

"9.08.160 Interference with Conduct of Public Business in Public Buildings, or Facilities or on Public Lands.

A. Interference with the conduct of public business in public buildings, or facilities, or on public lands is:

1. Conduct at or in any public building, or facility or on land owned, operated, or controlled by the United States, the county, State the state, or the City so as to intentionally deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use, or to leave, any such public building, facility, or land; ~~or~~

2. intentionally impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof; ~~or~~

3. intentionally refusing or failing to leave any such public building, facility, or land upon being requested to do so by a law enforcement officer or the City Manager, or designee, charged with maintaining order in such public building, facility, or land if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such public building, facility or land; ~~or~~

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4. intentionally impeding, disrupting, or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building, facility, or land by any act of intrusion into the chamber or other areas designated for the use of the body, or official conducting such meeting or session, or by any act designed to intimidate, coerce, or hinder any member of such body, or any official engaged in the performance of duties at such meeting or session; or

5. intentionally impeding, disrupting, or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.

B. Interference with the conduct of public business in public buildings is a Class A Public Offense.

C. Nothing in this section shall grant law enforcement authority to a federal law enforcement officer as defined in 5 U.S.C. § 8401 or 6 U.S.C. § 271. ”

SECTION EIGHT: Section 9.09.010 of the Olathe Municipal Code is hereby amended to read as follows:

“9.09.010 Official Misconduct.

(a) Official misconduct is any of the following acts committed by a public officer or employee in his public capacity or under color of his office or employment:

(1) Knowingly using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and amendments thereto, under the officer’s or employee’s control or direction, or in the officer’s or employee’s custody, exclusively for the private benefit or gain of the officer or employee or another.

(2) Knowingly ~~and willing~~ failing to serve civil process when required by law.

(3) Using confidential information acquired in the course of and related to the officer’s or employee’s office or employment for the private benefit or gain of the officer or employee or another or to

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~~maliciously~~ intentionally cause harm to another. ~~As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.~~

(4) Except as authorized by law, ~~knowingly, willfully and~~ with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract:

- (A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract;
- (B) Accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or
- (C) Altering any bid or proposal submitted by a bidder on a contract or proposed contract.

(5) Except as authorized by law, knowingly destroying, ~~tempering~~ tampering with, or concealing evidence of a crime.

(6) Knowingly ~~and willfully~~ submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, ~~or~~ or another governmental or private entity.

(b) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:

(1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or

(2) Constitutes misuse of public funds, as defined in K.S.A. ~~21-3910~~ 21-6005, and amendments thereto.

(c) (1) Official misconduct as defined in subsections (a)(1) through (a)(4) is a Class A Public Offense.

(2) Official misconduct as defined in subsection (a)(5) is a Class A Public Offense if the evidence is evidence of a crime which is a misdemeanor.

(3) Official misconduct as defined in subsection (a)(6) is a Class A Public Offense for a claim of less than One Thousand Dollars (\$1,000.00).

(4) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.

(5) As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto."

SECTION NINE: Section 9.10.020 of the Olathe Municipal Code is hererby amended to read as follows:

"9.10.020 Breach of Privacy.

A. Breach of privacy is ~~knowingly~~intentionally and without lawful authority:

1. Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;
2. Divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting such message;
3. Entering or peeping into a private place with intent to listen surreptitiously to private conversation or to observe the personal conduct of any other person or persons therein;
4. Installing or using inside or outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein; or
5. Installing or using any device or equipment for the interception of any telephone, telegraph, or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication.

B. Subsection A.1. of this section shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

C. The provisions of this section shall not apply to:

1. An operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity ~~which~~ that is incident to the rendition of public utility service or to the protection of the rights of property of such public utility;
2. A provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person;
3. A radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto;
4. A local exchange carrier or telecommunications carrier as defined in K.S.A. 66-1,187, and amendments thereto;
5. A cable service, as defined in 47 U.S.C. § 522;
6. A provider of direct-to-home satellite services, as defined in 47 U.S.C. § 303(v); and
7. A multichannel video programming distributor, as defined in 47 U.S.C. § 522(13), or an affiliate thereof.

D. Breach of privacy is a Class A Public Offense.

E. As used in this section, "lawful authority" does not include any act or behavior prohibited by this section that is undertaken with the intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person."

NEW SECTION TEN: Section 9.10.050 is hereby added to the Olathe Municipal Code to read as follows:

“9.10.050 Interference With the Conduct of a Religious Assembly.

Interference with the conduct of a religious assembly is recklessly damaging, defacing, or destroying the property of a place of religious worship by means other than by fire or explosive, if the property that is damaged, defaced, or destroyed has a value of less than \$1,000.

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Interference with the conduct of a religious assembly is a Class A Public Offense.”

SECTION ELEVEN: Section 9.11.100 of the Olathe Municipal Code is hereby amended to read as follows:

“9.11.100 Criminal Desecration.

Criminal desecration is:

- (1) Knowingly ~~Obtaining~~ obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn, or other article containing a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being; or
- (2) Recklessly, ~~By~~ by means other than by fire or explosive:
 - (a) Damaging, defacing, or destroying the flag, ensign, or other symbol of the United States or ~~the~~ this state in which another has a property interest without the consent of other such persons;
 - (b) Damaging, defacing, or destroying any public monument or structure; or
 - (c) Damaging, defacing, or destroying any tomb, monument, memorial, marker, grave, vault, crypt, gate, tree, shrub, plant, or other property in a cemetery; ~~or~~
 - ~~(d) Damaging, defacing or destroying any place of worship.~~
- (3) Criminal desecration as described in subsections (2)(b), or (2)(c) ~~and (2)(d)~~ is a Class A Public Offense if the property is damaged to the extent of less than One Thousand Dollars (\$1,000.00).
- (4) Criminal desecration as described in Section (1) and subsection (2)(a) is a Class A Public Offense.”

NEW SECTION TWELVE: Section 9.12.260 is hereby added to the Olathe Municipal Code to read as follows:

“9.12.260 Unlawful Use of a Laser Pointer.

Unlawful use of a laser pointer is knowingly directing light from a laser pointer at a law enforcement officer while such officer is engaged in the performance of such officer's duties.

Unlawful use of a laser pointer is a Class A Public Offense.

As used in this section, "laser pointer" means a device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.”

SECTION THIRTEEN: Existing Sections 9.01.110, 9.05.080, 9.06.010, 9.07.010, 9.07.170, 9.08.030, 9.08.160, 9.09.010, 9.10.020, 9.11.100, 9.16.010, 9.16.020, and 9.16.030 are hereby repealed.

SECTION FOURTEEN: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this _____ day of _____, 2026.

SIGNED by the Mayor:

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.