

**SUMMARY OF PROPOSED CHANGES TO
OLATHE MUNICIPAL CODE TITLE 9
(THE OLATHE PUBLIC OFFENSE CODE)**

The proposed ordinance would add one new section to the Olathe Public Offense Code in accordance with law created by 2024 Kansas legislation. It would repeal one section due to a conflicting state law. It also would make changes to two other sections to address issues raised by the prosecutors and police, align with state law, or address recent Kansas Supreme Court caselaw.

1. New Section Based Upon 2024 Legislation

The proposed ordinance adds a new section based on 2024 House Sub. for SB 419, which provides immunity from arrest or prosecution for simple possession drug or drug paraphernalia offenses (not including possession with intent to distribute) when a person seeks medical assistance for themselves or another person who needs such assistance because of the use of a controlled substance. The new law applies to city ordinances prohibiting the same acts prohibited by the state criminal statutes covered by the law. The proposed ordinance identifies the sections in the Olathe Public Offense Code corresponding to the relevant state criminal statutes.

2. Repeal Based Upon State Law Conflict

The proposed ordinance repeals O.M.C. 9.12.045 (Possession of a Firearm Under the Influence) due to a conflicting state statute, KSA 12-16,124, which prohibits adoption or enforcement of any ordinance governing the carrying or transporting of firearms or ammunition. The underlying conduct remains illegal under state law, K.S.A. 21-6332.

3. Amendments to Other Sections

The proposed ordinance amends the following sections:

- 1) Section 9.01.110 (General Definitions) by adding THC to the definition of “electronic cigarette” to clarify that vapes being used by minors to inhale THC are included within the relevant offenses (see O.M.C. 9.06.060 and O.M.C. 9.06.070) and by adding Kansas Department of Corrections officers and employees to the definition of “law enforcement officer” to align with K.S.A. 21-5111(p). The definition of “fighting words” is moved to Section 9.11.010 as part of the amendments to that section.

ATTACHMENT B

- 2) Section 9.11.010 (Disorderly Conduct) by amending the elements of the offense to remove language held unconstitutional earlier this year by the Kansas Supreme Court in *City of Wichita v. Griffie*. The proposed ordinance also would otherwise align the section with the corresponding state statute.