

ORDINANCE NO. 25-21

AN ORDINANCE PERTAINING TO THE OLATHE PUBLIC OFFENSE CODE;
AMENDING SECTIONS 9.07.271, 9.10.020, 9.12.060, AND 9.13.110 AND
REPEALING THE EXISTING SECTIONS.

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

SECTION ONE: Section 9.07.271 of the Olathe Municipal Code is hereby
amended to read as follows:

“9.07.271 Criminal Trespass on a Critical Infrastructure Facility.

(A) Trespassing on a critical infrastructure facility is, without consent of
the owner or the owner’s agent, knowingly entering or remaining on or in:

(1) A critical infrastructure facility; or

(2) Any property containing a critical infrastructure facility, if such
property is completely enclosed by a fence or other physical barrier
that is obviously designed to exclude intruders or is clearly marked
with a sign or signs that are posted on the property that are
reasonably likely to come to the attention of intruders and indicate
that entry is forbidden without site authorization.

(B) Trespassing on a critical infrastructure facility is a Class A public
offense.

(C) Nothing in this section shall be construed to prevent:

(1) An owner or operator of a critical infrastructure facility that has
been damaged from pursuing any other remedy in law or equity; or

(2) A person who violates the provisions of this section from being
prosecuted for, convicted of, and punished for any other offense in
article 58 of chapter 21 of the Kansas Statutes Annotated, and
amendments thereto, or a comparable offense under the Olathe
Municipal Code.

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(D) As used in this section, “critical infrastructure facility” means any:

- (1) Petroleum or alumina refinery;
- (2) Electric generation facility, substation, switching station, electrical control center, electric distribution or transmission lines, or associated equipment infrastructure;
- (3) Chemical, polymer, or rubber manufacturing facility;
- (4) Water supply diversion, production, treatment, storage, or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;
- (5) Natural gas compressor station;
- (6) Liquid natural gas or propane terminal or storage facility;
- (7) Facility or any aboveground or belowground line, cable, or wire that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including:
 - (a) Backup power supplies;
 - (b) Cable television headend;
 - (c) Antennas, radio transceivers, towers, wireless support structures, small cell facilities, and any associated support structures and accessory equipment; and
 - (d) Related equipment buildings, cabinets and storage sheds, shelters, or similar structures;
- (8) Port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;
- (9) Gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane, or natural gas liquids;

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(10) Transmission facility used by a federally licensed radio or television station;

(11) Steelmaking facility that uses an electric arc furnace to make steel;

(12) Facility identified and regulated by the United States Department of Homeland Security chemical anti-terrorism standards program, or a facility operated by the Office of Laboratory Services under the supervision of the Secretary of Health and Environment pursuant to K.S.A. 75-5608, and amendments thereto;

(13) Dam that is regulated by the state as a hazard class B or C dam or by the federal government;

(14) Natural gas distribution facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;

(15) Crude oil, including Y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline, or piping and truck loading or offloading facility; or

(16) Portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility, or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.”

SECTION TWO: Section 9.10.020 of the Olathe Municipal Code is hereby amended to read as follows:

“9.10.020 Breach of Privacy.

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

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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 ~~it~~ [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 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; ~~or~~
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.”

SECTION THREE: Section 9.12.060 of the Olathe Municipal Code is hereby amended to read as follows:

“9.12.060 Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun, Blowgun, Blowdart Gun.

(A) The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun is the shooting, discharging, or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun within the City, ~~except~~ This section shall not be construed to apply to the operation of an air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun:

(1) Within the confines of ~~the~~ a building or other structure from which the projectiles cannot escape or during participation in an accredited educational or instructional program, ~~or~~

(2) By authorized law enforcement officers or animal control officers in the course of their duties or by a person who has a wildlife control permit issued by the Kansas Department of Wildlife and Parks for purposes authorized by such permit.

(B) Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun is a Class C Public Offense.”

SECTION FOUR: Section 9.13.110 of the Olathe Municipal Code is hereby amended to read as follows:

“9.13.110 Public Indecency.

(1) It ~~shall be~~ is unlawful for any person to knowingly or intentionally appear in a state of nudity in a public place.

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(2) "Nudity" means the showing of the human male or female: genitals, pubic hair, buttocks, anus, anal regions, natal cleft, perineum, or pubic hair region with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; the showing of the covered male genitals in a discernibly turgid state; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast which device simulates and give the realistic appearance of nipples and/or areola.

(3) "Public Place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal, or similar organizations. Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed a public place, except on those portions of such premises where a person may reasonably be expected to be observed by members of the public. "Public place" ~~shall~~ does not include enclosed single sex public restrooms; enclosed single sex functional showers; locker and/or dressing room facilities; enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations; those portions of doctor's offices, ~~portions of~~ and hospitals used for preparation, examination, testing, or treatment of patients; ~~and~~ or similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; ~~nor shall it include a person appearing in a state of nudity in a modeling class operated by: (1) a proprietary school, licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which~~

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~~credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.~~

(4) The prohibition set forth in subsection (1) ~~shall~~ does not apply to:

(a) Any child under ten (10) years of age; ~~or~~

(b) Any individual exposing a breast in the process of breastfeeding ~~an infant under three (3) years of age.~~

(c) Any theatrical production performed in a theater by a professional or amateur theatrical or musical company which has serious artistic merit; or

(d) A person appearing in a state of nudity in a modeling class operated by: (i) a proprietary school, licensed by the State; (ii) a college, junior college, or university supported entirely or partly by taxation; or (iii) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college.

(5) Public Indecency is a Class B Public Offense.”

SECTION FIVE: Existing Sections 9.07.271, 9.10.020, 9.12.060, and 9.13.110 are hereby repealed.

SECTION SIX: 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 _____, 2025.

Mayor

ATTEST:

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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.