

CHAPTER 541 Property Offenses

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CROSS REFERENCES

See sectional histories for similar State law
 Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
 Physical harm to property defined - see GEN. OFF. 501.01 (d), (f)
 Reimbursement for investigation or prosecution costs - see GEN. OFF. 501.99(a)
 Damage to sidewalks - see GEN. OFF. 521.04
 Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

- (a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.
- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
 - (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

- (3) If the property is not covered under subsection (a)(l) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).

(c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section. (ORC 2909.11)

541.02 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(b) This section does not apply if the violation is done with purpose to defraud or the property involved is a statehouse or a courthouse, school building or other building or structure that is owned or controlled by the State, any political subdivision, or any department, agency or instrumentality of the State or a political subdivision, and that is used for public purposes.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is five hundred dollars (\$500.00) or more, arson is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:

- (1) Knowingly, by any means;
- (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation is an occupied aircraft, criminal damaging or endangering is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in a violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief is a felony and shall be prosecuted under appropriate State law. (ORC 2909.07)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
- (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.

(d) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(e) As used in this section, "land or premises" includes any land, building, structure or place belonging to, controlled by or in custody of another, and any separate enclosure or room, or portion thereof.

(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

(a) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him.

(b) Whoever violates this section is guilty of aggravated trespass , a misdemeanor of the first degree. (ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 901.99(A))

541.07 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
- (2) Any public monument;
- (3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;
- (4) A work of art or museum piece;
- (5) Any other object of reverence or sacred devotion.

(b) Whoever violates this section is guilty of desecration, a misdemeanor of the second degree.

(c) As used in this section, "cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains. (ORC 2927.11)

541.08 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 537.05, 537.06, 537.10 (a) (3) to (5), 541.03 or 541.04 of the General Offenses Code by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation. (ORC 2927.12)

541.09 VEHICULAR VANDALISM.

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1547.01.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law. (ORC 2909.09)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 545 Theft and Fraud

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545.06	Unauthorized use of a vehicle; vehicle trespass.	545.16	Personating an officer.
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		545.21	Identity fraud.
		545.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Property defined – see GEN. OFF. 501.01

(j) Cheating – see GEN. OFF. 517.05

Falsification – see GEN. OFF. 525.02

Impersonating a public servant – see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(l) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(l), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C .A. 1693a, as amended.

- (w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
- (bb)
 - (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
 - (2) "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
(ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
 - (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
 - (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services.
- (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

- (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
- (d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license plate, placard or sticker as prescribed by the applicable law of another state or the United States;
- (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (f) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity .

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
(ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is five hundred dollars (\$500.00) or more; or
- (2) The victim of the offense is an elderly person or disabled adult, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle.
(ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) — Whoever violates subsection (d) hereof is guilty of vehicle trespass, a minor misdemeanor.

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) “Data” has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) “Deceptive” means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) “Insurer” means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) “Policy” means a policy, certificate, contract or plan that is issued by an insurer.
- (5) “Statement” includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is five hundred dollars (\$500.00) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:

- (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is five hundred dollars (\$500.00) or more; or
- (2) If the victim of the offense is an elderly person or disabled adult.
(ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

(b) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(c) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:

- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;
- (2) Furnishing such license or card, or another identification document that contains false information;
- (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(d) Whoever violates this section is guilty of passing bad checks, a misdemeanor of the first degree. If the check or other negotiable instrument is for payment of five hundred dollars (\$500.00) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

(a) No person shall do any of the following:

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) knowingly buy or sell a credit card from or to a person other than the issuer.

(b) No person, with purpose to defraud, shall do any of the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
- (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:

- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five hundred dollars (\$500.00) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
- (ORC 2913.21)

545.11 MAKING OR USING SLUGS.

(a) No person shall do any of the following:

- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
- (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

(a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

(b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is five hundred dollars (\$500.00) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law. (ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

(a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is five hundred dollars (\$500.00) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is five hundred dollars (\$500.00) or more; or
- (2) The victim of the offense is an elderly person or disabled adult.
(ORC 2913.43)

545.16 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is five hundred dollars (\$500.00) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is five hundred dollars (\$500.00) or more; or
- (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
(ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

(a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

(b) Each of the following constitutes prima-facie evidence of criminal purpose:

- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
- (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
- (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).
(ORC 2913.31)

545.21 IDENTITY FRAUD.

(a) As used in this section, "personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password or credit card number of an individual.

(b) No person, without the express or implied consent of the other person, shall use, obtain, or possess any personal identifying information of another person with intent to do either of the following:

- (1) Hold the person out to be the other person;
- (2) Represent the other person's personal identifying information as the person's own personal identifying information.

(c) No person shall create, obtain, possess, or use the personal identifying information of any person with the intent to aid or abet another person in violating division (b) of this section.

(d) No person, with intent to defraud, shall permit another person to use the person's own personal identifying information.

(e) No person who is permitted to use another person's personal identifying information as described in division (d) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (b)(1) or (2) of this section.

- (f)
- (1) It is an affirmative defense to a charge under division (b) of this section that the person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.
 - (2) It is an affirmative defense to a charge under division (b), (d), or (e) of this section that either of the following applies:
 - A. The person or entity using the personal identifying information as a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel and is using the personal identifying information in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter.
 - B. The personal identifying information was obtained, possessed, or used for a lawful purpose⁹.

(g) It is not a defense to a charge under this section that the person whose personal identifying information was obtained, possessed, or used was deceased at the time of the offense.

- (h)
- (1) If the violation of division (b), (d) or (e) of this section occurs as part of a course of conduct involving other violations of division (b), (d) or (e) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (c) of this section or Ohio R.C. 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 or substantially equivalent municipal ordinance, the court in determining the degree of the offense pursuant to division (i) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

- (2) If the violation of division (c) of this section occurs as part of a course of conduct involving other violations of division (c) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (b), (d) or (e) of this section or Ohio R.C. 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43 or 2921.13 or substantially equivalent municipal ordinance, the court, in determining the degree of the offense pursuant to division (i) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the person aided or abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided or abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(i) Whoever violates this section is guilty of identity fraud. Except as otherwise provided in this division, identity fraud is a misdemeanor of the first degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is five hundred dollars (\$500.00) or more, identity fraud is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.49)

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 549 Weapons and Explosives

549.01	Definitions.	549.06	Unlawful transactions in weapons.
549.02	Carrying concealed weapons.		
549.03	Using weapons while intoxicated.	549.07	Underage purchase of firearm.
549.04	Improperly handling firearms in a motor vehicle.	549.08	Discharging firearms.
549.05	Failure to secure dangerous ordnance.	549.09	Throwing or shooting missiles.
		549.10	Possessing replica firearm in school.
		549.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see
Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (k) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection I(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) “Automatic firearm” means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. “Automatic firearm” also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.
- (f) “Sawed-off firearm” means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) “Zip-gun” means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter’s pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signaling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) “Explosive device” means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. “Explosive device” includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) “Incendiary device” means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) “Ballistic knife” means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) “Dangerous ordnance” means any of the following, except as provided in subsection (1) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose; nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclitol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or silencer;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance

- (l) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (1)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921 (a)(4), as amended, and regulations issued under that Act.
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as Class A, Class **B**, or Class C explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any explosive that is not subject to regulation under the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

(b) No person who has been issued a license to carry a concealed handgun under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, who is stopped for a law enforcement purpose, and who is carrying a concealed handgun shall fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license to carry a concealed handgun and that the person then is carrying a concealed handgun.

- (c) (1) This section does not apply to officers, agents, or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance, and acting within the scope of their duties.
- (2) Subsection (a)(2) of this section does not apply to any of the following:
- A. An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, who is authorized to carry a handgun and acting within the scope of the officer's, agent's or employee's duties;
 - B. A person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license to carry a concealed handgun issued to the person under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
- (d) It is an affirmative defense to a charge under subsection (a) of this section of carrying or having control of a weapon other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
 - (4) The weapon was being transported in a motor vehicle for any lawful purpose, was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements of Section 549.04(b).
- (e) It is an affirmative defense to a charge under subsection (a) of this section of carrying or having control of a weapon other than a dangerous ordnance that all of the following apply:
- (1) The firearm that is the basis of the charge is a handgun.
 - (2) A temporary protection order or civil protection order has been issued for the benefit or protection of the actor not more than forty-five days before the date on which the act charged occurred, and, at the time of the act charged, the temporary protection order or civil protection order is in effect, and the actor is carrying a copy of the temporary protection order or civil protection order.

- (3) If at the time of the act charged, the actor has been stopped for any law enforcement purpose, the actor promptly informs any law enforcement officer who approaches the actor that the actor is carrying or has control of a handgun and shows the officer the copy of the order described in subsection (2) of this section.
 - (4) If the actor is in a vehicle at the time of the act that is the basis of the charge, one of the following applies:
 - A. No person under eighteen years of age is in the vehicle at the time of the transportation or possession charged, and either the handgun is in a holster and in plain sight, or the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and is locked.
 - B. One or more persons under eighteen years of age is in the vehicle at the time of the transportation or possession charged, the handgun is not on the person of the actor, and the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and is locked.
- (f) No person who is charged with a violation of this section shall be required to obtain a license to carry a concealed handgun under Ohio R.C. 2923.125 as a condition for the dismissal of the charge.
- (g) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsection (g)(2) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsection (g)(2) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsection (g)(2) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) If a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce either type of license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:

- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
 - 1. Within ten days after the arrest, the offender presents a license to carry a concealed handgun under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 - 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
 - B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
 - 1. The offender previously had been issued a license to carry a concealed handgun under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, and that license expired within the two years immediately preceding the arrest.
 - 2. Within forty-five days after the arrest, the offender presents either type of license identified in subsection (g)(2)B.1. of this section to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 - 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
 - C. If neither subsection (g)(2)A. nor B. of this section applies, the offender shall be punished under subsection (g)(1) of this section.
- (3) Carrying concealed weapons in violation of subsection (b) of this section is a misdemeanor of the fourth degree.
(ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

- (a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.
- (b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

- (a) No person shall knowingly transport or have a loaded firearm in a motor vehicle, in such manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(b) No person shall knowingly transport or have a firearm in a motor vehicle, unless it is unloaded, and is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) In plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(c) No person who has been issued a license to carry a concealed handgun shall do any of the following:

- (1) If the person is the driver or an occupant of a vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle, fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle.
- (2) If the person is the driver or an occupant of a vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle, and if the person is approached by any law enforcement officer while stopped, knowingly carry, possess on the person's person, have contact with, or make contact with a loaded handgun in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person possesses or has or makes contact with the loaded handgun pursuant to and in accordance with explicit instructions given by the law enforcement officer.

(d) (1) This section does not apply to officers, agents or employees of this or any other state or the United States, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties.

(2) Subsections (a) and (b) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, all of the following apply:

- A. The person transporting or possessing the handgun is carrying a valid license to carry a concealed handgun issued to the person under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- C. One of the following applies :
 1. No person under eighteen years of age is in the motor vehicle, and either the handgun is in a holster and in plain sight or the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and that is locked.

2. One or more persons under eighteen years of age is in the motor vehicle, the handgun is not on the person of the person transporting or possessing the handgun, and the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and that is locked.

(e) It is an affirmative defense to a charge under subsection (a) or (b) of this section of improperly handling firearms in a motor vehicle that all of the following apply:

- (1) The firearm that is the basis of the charge is a handgun.
- (2) A temporary protection order or civil protection order has been issued for the benefit or protection of the actor not more than forty-five days before the date on which the transportation or possession occurred, and, at the time of the transportation or possession charged, the temporary protection order or civil protection order is in effect, and the actor is carrying a copy of the temporary protection order or civil protection order.
- (3) If at the time of the transportation or possession charged, the motor vehicle in which the actor is transporting or has the handgun has been stopped as a result of a traffic stop or a stop for another law enforcement purpose, the actor promptly informs any law enforcement officer who approaches the vehicle while stopped that the actor is transporting or has the handgun in the vehicle and shows the officer the copy of the order described in subsection (e)(2) of this section.
- (4) One of the following applies:
 - A. No person under eighteen years of age is in the motor vehicle at the time of the transportation or possession charged, and either the handgun is in a holster and in plain sight, or the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and is locked.
 - B. One or more persons under eighteen years of age is in the motor vehicle at the time of the transportation or possession charged, the handgun is not on the person of the actor, and the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and is locked.

(f) No person who is charged with a violation of subsection (a) or (b) of this section shall be required to obtain a license to carry a concealed handgun under Ohio R.C. 2923.125 as a condition for the dismissal of the charge.

(g) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (b) of this section is a misdemeanor of the fourth degree. A violation of subsection (c)(1) of this section is a misdemeanor of the fourth degree. A violation of subsection (c)(2) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (c)(2) of this section, a felony and shall be prosecuted under appropriate State law. A violation of subsection (a) of this section is whichever of the following is applicable:

- (1) If, at the time of the transportation or possession in violation of subsection (a) of this section, the offender was carrying a valid license to carry a concealed handgun issued to the offender under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69 and the offender was not recklessly in a place described in division (B) of Ohio R.C. 2923.125, the violation is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, a felony and shall be prosecuted under appropriate State law.
 - (2) If subsection (g)(1) of this section does not apply, a felony and shall be prosecuted under appropriate State law.
- (h) As used in this section:
- (1) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
 - (2) "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
 - (3) "Civil protection order" and "temporary protection order" have the same meanings as in Ohio R.C. 2923.124.
(ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

- (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:
- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
 - (2) To insure the safety of persons and property.
- (b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

- (a) No person shall:
- (1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;
 - (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
 - (3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree . Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. (ORC 2923 .20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun , provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if the person eighteen years of age or older and under twenty-one years of age is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree .

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R.C. 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate State law.

- (d)
 - (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of Ohio R.C. 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.
If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R.C. 4510.02.
 - (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection.

(e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.
(ORC 2923.122)

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

H-23-045

Village of Jamestown, Ohio
Ordinance # 1-2023

AN ORDINANCE AMENDING PART FIVE-GENERAL OFFENSES;
PART NINE-STREETS, UTILITIES AND PUBLIC SERVICES; AND
PART ELEVEN- PLANNING AND ZONING OF THE CODIFIED
ORDINANCES OF THE VILLAGE OF JAMESTOWN

WHEREAS, the Village of Jamestown Council has the responsibility to ensure the general health, welfare and safety of its residents; and

WHEREAS, the Village of Jamestown Council has a continuing need to properly enforce property maintenance within the village; and

WHEREAS, the costs to enforce property maintenance continue to increase;

NOW, THEREFORE, BE IT ORDAINED that the Village of Jamestown Council hereby initiates an amendment to Chapters 551, 917, and 1133 as follows:

CHAPTER 551 ENTITLED WEEDS AND LITTER

551.01 KEEPING DOWN WEEDS

(a) Any person owning or having charge of land within the Village shall keep said property free and clear from all noxious weeds and rank vegetation and shall be required to prevent the same from blooming or going to seed or exceeding the height of eight inches.

(1) Any person in violation of 551.01(a) shall be given written notice by the Village Administrator which shall include the specific nature of the violation as well as what corrective action is needed. Any person receiving a notice under this section shall be given fifteen (15) days to comply with the directives included therein before any additional action is taken by the Village.

(b) Any property on which noxious weeds and vegetation are not cut as provided in this subsection (a) hereof can be cut by order of the Village, after fifteen days (15) from the date upon which the violator was provided notice in accordance with subsection (a), and a special mowing assessment fee of (\$150.00) per mowing assessed to the property owner, which shall be in addition to any other penalty provided in this chapter.

(1) The Village and the Village Administrator, at their discretion, may choose to extend the period between the service of notice under 551.01(a)(1) an additional ten (10) days before the Village intervenes to correct the issue and the mowing assessment fee is incurred.

(2) If the Village elects under 551.01(b)(1) to extend the period of time to comply, the property/owner served notice shall be fined at a rate of Twenty-Five Dollars (\$25.00) per day for each day after the 15th day from notice for a maximum of ten (10) days.

(c) "Noxious Weeds" and "rank vegetation" shall include but not be limited to"

(1) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind;

(2) ~~Bushes of the species of tall, common or European barberry, further known as berberis vulgaris or its horticultural varieties;~~

(3) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants growing to a height exceeding 12 inches.

(d) Nothing in this section limits or prohibits the penalties included in 551.04 from applying to violators of this section in addition to any penalties described herein.

(e) In addition to any specific penalties provided for under this subsection, violators may be subject to the provisions of 1323.01, et seq.

551.02 NOTICE TO OWNER TO CUT NOXIOUS WEEDS; REMOVE LITTER; SERVICE

(a) Upon written information that noxious weeds are growing on lands in the Village and are about to spread or mature seeds, Council shall cause written notice to be served on the owner, lessee, agent, or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within five days after service of such notice.

(b) Upon a finding by Council that litter has been placed on lands of the Village, and has not been removed, and constitutes a detriment to public health, Council shall cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land, and that it must be collected and removed with 15 days after service of the notice.

(1) The written notice provided for in 551.02(b) shall include the specific nature of the violation as well as what corrective action is needed. Any person receiving a notice under this section shall be given fifteen (15) days to comply with the directives included therein before any additional action is taken by the Village.

(2) The Village and the Village Administrator, at their discretion, may choose to extend the period between the service of notice under 551.02(b)(1) an additional ten (10) days before the Village intervenes to correct the issue.

(3) If the Village elects under 551.02(b)(1) to extend the period of time to comply, the property/owner served notice shall be fined at a rate of Fifty Dollars (\$50.00) per day for each day after the 15th day from notice for a maximum of ten (10) days.

(4) Said costs described in 551.02(b) shall be in addition to the cost associated with any rental equipment needed to accomplish the corrective action and/or the cost of any labor needed to accomplish the corrective action expended by the Village.

(c) As used in this section and Section 551.04, "litter" includes any garbage, waste, peeling of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(1) As used in this section and Section 551.04, "litter" shall also include any boats, trailers, recreational vehicles, appliances, automobile parts and large household items deemed to constitute a detriment to public health.

(d) If the owner or other person having charge of the land is a nonresident of the municipal corporation which address is known, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper or general circulation in the County.

(e) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to Ohio RC. Chapter 3734, Ohio RC. 4737.05 to 4737.12, or Ohio RC. Chapter 6111.

(f) Nothing in this section limits or prohibits the penalties included in 551.04 from applying to violators of this section in addition to any penalties described herein.

551.04 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE

(a) In the event the owner, lessee, agent, or tenant having charge of the land mentioned in Section 551.02 fails to mow, trim, cut or remove trees, plants, shrubbery, weeds, grasses, or litter in accordance with the notice required by Section 551.02 provisions of this chapter, Council shall cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by Council, be paid out of the money in the Treasury of the Village not otherwise appropriated.

(b) In addition to any specific penalties provided for under this subsection, or any specific Ordinance subsection associated with any specific violation, violators may be subject to the provisions of 1323.01, et seq.

CHAPTER 917 ENTITLED TREES

917.01 TRIMMING OF TREES AND SHRUBBERY TO PREVENT OBSTRUCTION.

(a) It shall be unlawful for any person to plant, grow or maintain any shade tree or trees or shrubbery which will obstruct the proper distribution of light from street lamps or which will obstruct the view of traffic approaching an intersection by operators of vehicles approaching said intersection from another direction.

(1) Any person in violation of 917.01(a) shall be given written notice by the Village Administrator which shall include the specific nature of the violation as well as what corrective action is needed. Any person receiving a notice under this section shall be given fifteen (15) days to comply with the directives included therein before any additional action is taken by the Village.

(b) All trees shall be trimmed so as to have a clear height of seven (7) feet above the surface of sidewalks and 13.6 feet above the surface of the street or roadway, and the branches of all trees in front of and along lots and lands near which street lights are placed shall be trimmed so as not to obstruct the free passage of light from said street lights to the street and sidewalk.

(c) Any person in violation of 917.01(a) or (b) shall be given written notice by the Village Administrator which shall include the specific nature of the violation as well as what corrective action is needed. Any person receiving a notice under this section shall be given fifteen (15) days to comply with the directives included therein before any additional action is taken by the Village.

(1) The Village and the Village Administrator, at their discretion, may choose to extend the period between the service of notice under 917.01(c) an additional ten (10) days before the Village intervenes to correct the issue.

(2) If the Village elects under 917.01(c)(1) to extend the period of time to comply, the property/owner served notice shall be fined at a rate of Twenty-Five Dollars (\$25.00) per day for each day after the 15th day from notice for a maximum of ten (10) days.

(d) If the property owner fails to trim or remove the trees and/or shrubbery as ordered, within fifteen (15) days of receiving the notice described in 917.01(c), Council may cause the trees or shrubbery to be trimmed or removed as ordered, and the cost thereof shall be a lien upon such real estate.

(1) Said costs described in 917.01(d) shall include, but are not limited to, a one-time \$150.00 trimming assessment, the cost associated with any rental equipment needed to accomplish the corrective action and/or the cost of any labor needed to accomplish the corrective action.

(e) Nothing in this section limits or prohibits the penalties included in 551.04 from applying to violators of this section in addition to any penalties described herein.

(f) In addition to any specific penalties provided for under this subsection, violators may be subject to the provisions of 1323.01, et seq.

(1994 Code 93.50)

CHAPTER 1133 ENTITLED SPECIAL PROVISIONS

1133.02 PUBLIC NUISANCES PROHIBITED

(j) Litter. Litter constituting a detriment to public health which has been placed on any property shall be removed. Litter includes any garbage, waste, peelings of vegetables or fruit, rubbish, ashes, cans, bottles, wire, paper, boxes, parts of automobiles, commercial equipment, farm equipment, furniture, glass or oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

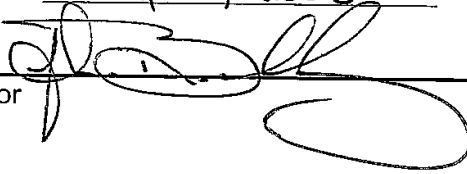
(k) Junk. Junk such as abandoned vehicles, household appliances, farm equipment, or any other matter, for which no future use is contemplated or which has deteriorated to the point of creating a visual blight on the landscape shall be removed from the view from any public road or right-of-way.

(l) In addition to any specific penalties provided for under this subsection, violators may be subject to the provisions of 1323.01, et seq

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF
JAMESTOWN, OHIO, THAT THIS ORDINANCE SHALL TAKE EFFECT AT THE
EARLIEST PERIOD ALLOWED BY LAW

Passed July 3, 2023

Mayor

A large, stylized handwritten signature in black ink, written over a horizontal line.

Mark Haine
Fiscal Officer

VILLAGE OF JAMESTOWN, OHIO
ORDINANCE 07--3-07

AN ORDINANCE AMENDING CHAPTER 551 WEEDS AND LITTER OF PART FIVE GENERAL
OFFENSES OF THE CODIFIED ORDINANCES OF THE VILLAGE OF JAMESTOWN.

WHEREAS, the Village of Jamestown has a continuing need to properly enforce property maintenance with the village; and

WHEREAS, the costs to enforce property maintenance continue to increase;

WHEREAS, Village Council finds it necessary to amend Chapter 551 ensure that all of its costs for enforcement are reimbursed;

NOW THEREFORE, the Village of Jamestown hereby ordains:

Section 1. That Chapter 551 of the Codified Ordinances of the Village of Jamestown, entitled Weeds and Litter, is hereby amended as follows:

551.01 KEEPING DOWN WEEDS

- (a) Any person owning or having charge of land within the Village shall keep said property free and clear from **all noxious** weeds and rank vegetation and shall be required to prevent the same from blooming or going to seed or exceeding the height of eight inches.
- (b) Any property on which noxious weeds and vegetation are not cut as provided in this subsection (a) hereof can be cut by order of the Village, and a special mowing assessment fee of (\$150.00) per mowing assessed to the property owner, which shall be in addition to any other penalty provided in this chapter.
- (c) "Noxious Weeds" and "rank vegetation" shall include but not be limited to"
 - (1) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind;
 - (2) Bushes of the species of tall, common or European barberry, further known as berberis vulgaris or its horticultural varieties;
 - (3) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants growing to a height exceeding 12 inches.

551.02 NOTICE TO OWNER TO CUT NOXIOUS WEEDS; REMOVE LITTER; SERVICE

(a) Upon written information that noxious weeds are growing on lands in the Village and are about to spread or mature seeds, Council shall cause written notice to be served on the owner, lessee, agent, or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within five days after service of such notice.

(b) Upon a finding by Council that litter has been placed on lands of the Village, and has not been removed, and constitutes a detriment to public health, Council shall cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land, and that it must be collected and removed with 15 days after service of the notice.

(c) As used in this section and Section 551.04, "litter" includes any garbage, waste, peeling of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(d) If the owner or other person having charge of the land is a nonresident of the municipal corporation which address is known, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper or general circulation in the County.

(e) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to Ohio RC. Chapter 3734, Ohio RC. 4737.05 to 4737.12, or Ohio RC. Chapter 6111.

551.03 FEES FOR SERVICE AND RETURN

The Marshall, any police officer, or Clerk of Council may make service and return of the notice provided for in Section 551.02 and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate.

551.04 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE

In the event the owner, lessee, agent, or tenant having charge of the land mentioned in Section 551.02 fails to mow, trim, cut or remove trees, plants, shrubbery, weeds, grasses, or litter in accordance with the notice required by Section 551.02 provisions of this chapter, Council shall cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by Council, be paid out of the money in the Treasury of the Village not otherwise appropriated.

551.04 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT A LIEN UPON THE PROPERTY.

Whenever Council is required to take action pursuant to Section 551.02, 551.03, and 551.04, then, after the work is done, the Village shall give five days notice, by regular mail, to the owner of such lot or parcel of land, to pay the cost of such trimming or removal of trees, plants, shrubbery, grass or weeds, or parts thereof, which notice shall be accompanied by a statement of the amount of cost incurred, including the charges for their services, the amount paid for labor, the fees of the officers serving the notices, the total of all special mowing assessment fees referred to in Section 551.01 and a proper description of the premises. In the event the same is not paid within 30 days after the mailing of the notice, then Council shall make a written return to the County Auditor of their action under Section 551.02, 551.03 and 551.04, with a statement of charges for their services, the amount paid for labor, the fees of the officers serving the notices, the total of all special mowing assessment fees referred to in Section 551.01 and a proper description of the premises. These amounts, when allowed shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the Village with the General Fund.

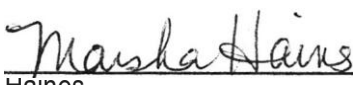
Section 2. That this Ordinance shall take effect and be in force from and after the earliest date allowed by law.

Passed: 08-06-07

Effective: __ __ __ __

Susan Weeks, Mayor

Village of Jamestown


 Marsha Haines
 Clerk of Village Council

CHAPTER 551
Weeds and Litter

551.01	Keeping down weeds.	551.04	Procedure when owner fails to comply with notice.
551.02	Notice to owner to cut noxious weeds; remove litter; service.	551.05	Written return to County Auditor; amount a lien upon property.
551.03	Fees for service and return.		

CROSS REFERENCES

Weeds and litter – see Ohio R.C. 731.51 et seq.
Deposits of rubbish – see GEN. OFF. 521.08

551.01 KEEPING DOWN WEEDS.

(a) Any person owning or having charge of land within the Village shall keep said property free and clear from all noxious weeds and rank vegetation and shall be required to prevent the same from blooming or going to seed or exceeding the height of eight inches.

(b) Any property on which noxious weeds and vegetation are not cut as provided in subsection (a) hereof can be cut by order of the Village, with costs of **\$150.00**, per mowing to the property owner, which shall be in addition to any other penalty provided in this chapter.

- (c) “Noxious weeds” and “rank vegetation” shall include but not be limited to:
- (1) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind;
 - (2) Bushes of the species of tall, common or European barberry, further known as berberis vulgaris or its horticultural varieties.
 - (3) Any weeds, grass, or plants, other than trees, bushes flowers or other ornamental plants growing to a height exceeding 12 inches (1994 Code 93.40)

**R.C. NOTICE TO OWNER TO CUT NOXIOUS WEEDS;
REMOVE LITTER; SERVICE.**

(a) Upon written information that noxious weeds are growing on lands in the Village and are about to spread or mature seeds, Council shall cause written notice to be served on the owner, lessee, agent or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within five days after service of such notice.

(b) Upon a finding by Council that litter has been placed on lands in the Village, and has not been removed, and constitutes a detriment to public health, Council shall cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land, and that it must be collected and removed within 5 days after the service of the notice.

(c) As used in this section and Section 551.04, "litter" includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(d) If the owner or other person having charge of the land is a nonresident of the municipal corporation whose address is known, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper or general circulation in the County.

(e) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to Ohio R.C. Chapter 3734, Ohio R.C. 4737.05 to 4737.12, or Ohio

R.C. Chapter 6111.
(1994 Code 93.41)

551.03 FEES FOR SERVICE AND RETURN.

The Marshal, any police officer, or Clerk of Council may make service and return of the notice provided for in Section 551.02, and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate.
(1994 Code 93.42)

**551.04 PROCEDURE WHEN OWNER FAILS TO COMPLY
WITH NOTICE.**

If the owner, lessee, agent or tenant having charge of the land mentioned in Section 551.02 fails to comply with the notice required by such section, Council shall cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by Council, be paid out of the money in the Treasury of the Village not otherwise appropriated.
(1994 Code 93.43)

**551.05 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT A
LIEN UPON PROPERTY.**

Council shall make a written return to the County Auditor of their action under Sections 551.02, 551.03 and 551.04, with a statement of the charges for their services, the amount paid for labor, the fees of the officers serving the notices, and a proper description of the premises. These amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the Village with the General Fund.

(1994 Code 93.44)