

**CITY OF XENIA, OHIO
ORDINANCE 2018 – 12**

**REPEALING IN ITS ENTIRETY CHAPTER 642. OF THE CITY’S GENERAL OFFENSES
CODE AND ENACTING A NEW CHAPTER 642., TITLED “PROPERTY OFFENSES”**

WHEREAS, the City has, in the City’s General Offenses Code, existing Chapter 642., which outlines criminal property offenses and the penalties for the same;

WHEREAS, certain crimes against property which are misdemeanors under State law need to be added to the City’s General Offenses Code, as well as new prohibitions against littering and endangering aircraft; and

WHEREAS, this Council finds it to be in the best interests of the health, safety, and welfare of the City and its inhabitants to repeal existing Chapter 642. in its entirety and replace it with an updated, more comprehensive Chapter.

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. Existing Chapter 642., titled “Offenses Relating to Property,” of the Codified Ordinances, contained in Part 6, the General Offenses Code, is hereby repealed in its entirety, as shown in the attached Exhibit A.

Section 2. A new Chapter 642., titled “Property Offenses,” as shown in the attached Exhibit B, is hereby enacted, to be included in the City’s General Offenses Code, under Part 6 of the Codified Ordinances.


Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 4. This Ordinance shall be effective as of May 26, 2018.

Introduced: April 12, 2018
Adopted: April 26, 2018

Attest:


Michelle D. Johnson
City Clerk


Michael D. Engle
President, Xenia City Council

CHAPTER 642
OFFENSES RELATING TO PROPERTY

~~642.01 DEFINITIONS.~~

~~The following words and/or phrases used in this section are defined in Chapter 604, § 604.01.~~

- ~~—ACTIVE DUTY SERVICE MEMBER.~~
- ~~—ANYHDROUS AMMONIA~~
- ~~—ASSISTANCE DOG~~
- ~~—CABLE TELEVISION SERVICE~~
- ~~—COIN MACHINE~~
- ~~—COMPUTER~~
- ~~—COMPUTER CONTAMINANT~~
- ~~—COMPUTER HACKING~~
- ~~— MISUSE OF COMPUTER AND NETWORK SERVICES~~
- ~~—COMPUTER NETWORK~~
- ~~—COMPUTER PROGRAM~~
- ~~—COMPUTER SERVICES~~
- ~~—COMPUTER SOFTWARE~~
- ~~—COMPUTER SYSTEM~~
- ~~—COUNTERFEIT TELECOMMUNICATIONS DEVICE~~
- ~~—CREATE A SUBSTANTIAL RISK OF SERIOUS PHYSICAL HARM TO ANY PERSON~~
- ~~—CREDIT CARD~~
- ~~—DANGEROUS DRUG~~
- ~~—DATA~~
- ~~—DECEPTION~~
- ~~—DEFRAUD~~
- ~~—DEPRIVE~~
- ~~—DISABLED ADULT~~
- ~~—DRUG ABUSE OFFENSE~~
- ~~—ELDERLY PERSON~~
- ~~—ELECTRONIC FUND TRANSFER~~
- ~~—EMERGENCY PERSONNEL~~
- ~~—FEDERALLY LICENSED FIREARMS DEALER~~
- ~~—FIREARM and DANGEROUS ORDNANCE~~
- ~~—FORGE~~
- ~~—GAIN ACCESS~~
- ~~—INFORMATION SERVICE~~
- ~~—INTERNET~~
- ~~—MOTOR VEHICLE~~
- ~~—OCCUPIED STRUCTURE~~
- ~~—OWNER~~
- ~~—POLICE DOG OR HORSE and SERVICE DOG~~
- ~~—POLITICAL SUBDIVISION~~
- ~~—RENTED PROPERTY~~
- ~~—SERVICES~~
- ~~—SLUG~~
- ~~—STATE~~
- ~~—TELECOMMUNICATION~~
- ~~—TELECOMMUNICATIONS DEVICE~~
- ~~—TELECOMMUNICATIONS SERVICE~~
- ~~—THEFT OFFENSE~~

~~—UTTER
—WRITING
(ORC 2909.01, 2913.01)~~

~~642.02 POSSESSION OF MUNICIPAL PROPERTY.~~

~~(a) No person shall, without being authorized, have in his or her control or possession any equipment, tools implements or other property belonging to the municipality.
(ORC 5589.12)~~

~~(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99(B))~~

~~642.03 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) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.~~

~~(c) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to Ohio R.C. 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the Law Enforcement Automated Data System Steering Committee.~~

~~(d) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to Ohio R.C. 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the Superintendent of the Bureau of Criminal Identification and Investigation.~~

~~(e) The affirmative defenses contained in Ohio R.C. 2913.03(C) are affirmative defenses to a charge under this section.~~

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

~~(1) 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 whichever of the following is applicable:~~

~~A. Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree; or~~

~~B. If the value of the property or services or the loss to the victim is one thousand dollars (\$1,000) or more, it is a felony to be prosecuted under appropriate state law.~~

~~(2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.~~

~~(g) Whoever violates subsection (b) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate state law.~~

~~(h) Whoever violates subsection (c) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.~~

~~(i) Whoever violates division (d) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony to be prosecuted under appropriate state law.~~

~~(j) The following words and/or phrases used in this section are defined in Chapter 604, § 604.01:~~

~~CABLE OPERATOR~~

~~CABLE SERVICE~~

~~CABLE SYSTEM~~

~~(ORC 2913.04)~~

~~642.04 INJURING VINES, BUSHES, 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 the penalty provided in subsection (c) of this section, 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))~~

~~642.07 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 Ohio R.C. 2909.03:~~

~~(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) of this section, 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; and~~

~~(3) If the property is not covered under subsection (a)(1) of this section, 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) (EDITOR'S NOTE: The definition contained in this section is also located in Chapter 604, § 604.01.) As used in this section, FAIR MARKET VALUE has the same meaning as in Ohio R.C. 2913.61.~~

~~(c) Prima facie evidence of the value of property, as provided in Ohio R.C. 2913.61(D), may be used to establish the value of property pursuant to this section.~~

~~(ORC 2909.11(B)–(D))~~

~~642.13 INTERFERENCE WITH PROPERTY RIGHTS.~~

~~(a) No person shall recklessly interfere with the property rights or interest of another, by any means.~~

~~(b) Whoever violates this section is guilty of interference with property rights, a minor misdemeanor. (Ord. 93-12. Passed 03/11/1993)~~

CHAPTER 642
Property Offenses

642.01	Determining Property Value in Arson	642.10	Vehicular Vandalism; Railroad Vandalism
642.02	Arson		
642.03	Criminal Damaging or Endangering	642.11	Unauthorized Use of Property
642.04	Criminal Mischief	642.12	Endangering Aircraft
642.05	Criminal Trespass	642.13	Littering and Deposit of Garbage, Rubbish or Junk
642.06	Aggravated Trespass		
642.07	Unlawful Entry onto Place of Public Amusement	642.14	Diminishing or Interfering with Forfeitable Property
642.08	Destruction of Shrubs, Trees or Crops	642.15	Definitions
642.09	Improper Removal of Improvements from Mortgaged Property	642.99	Penalties

CROSS REFERENCES

See sectional histories for similar State law
Parent's liability for children's acts – see ORC 3109.09
Physical harm to property defined – see GEN. OFF. 604.01
Vandalism – see ORC 2909.05

642.01 DETERMINING PROPERTY VALUE IN ARSON.

(a) Determination by Judge or Jury: When a person is charged with a violation of division (a) or (b) of Section 642.02 of this Chapter involving property value or an amount of physical harm of one thousand dollars (\$1,000) or more, the jury or court trying the accused shall determine the value of the property or amount of physical harm and, if a guilty verdict is returned, shall return the finding as part of the verdict. In any such case, it is unnecessary to find or return the exact value or amount of physical harm, ORC 2945.75 applies and, if the finding and return relate to a violation of division (a) or (b) of Section 642.02 of this Chapter and are that the value or amount of the physical harm was one thousand dollars (\$1,000) or more, the finding and return shall include a statement that the value or amount was one thousand dollars (\$1,000) or more, relative to finding and return of the value or amount of physical harm.

(b) Property Value: The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 642.02 of this Chapter:

- (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 division (b)(1) of this section 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 division (b)(1) of this section 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.

(c) Fair Market Value: As used in this section, “fair market value” has the same meaning as in Section 604.01 of the General Offenses Code.

(d) Prima Facie Evidence: Prima-facie evidence of the value of property, as provided in ORC 2913.61(D), may be used to establish the value of the property pursuant to this section. (ORC 2909.11)

642.02 ARSON.

(a) Prohibitions Concerning Land: 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) Prohibitions Concerning Structures: No person, by means of fire or explosion, shall knowingly cause, or create a substantial risk of, physical harm to any structure of another that is not an occupied structure.

(c) Affirmative Defense: It is an affirmative defense to a charge under division (b) of this section that the defendant acted with the consent of the other person.

(d) Penalties:

(1) Whoever violates this section is guilty of arson.

(2) A violation of division (a) or (b) of this section is one of the following:

A. Except as otherwise provided in division (d)(2)B. of this section, a misdemeanor of the first degree;

B. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, a felony to be prosecuted under appropriate State law.

(ORC 2909.03)

642.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) Prohibitions: 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) Penalties: 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 of this section 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, criminal damaging or endangering is a felony to be prosecuted under appropriate State law. If the property involved in a violation of this section 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 of this section is an occupied aircraft, criminal damaging or endangering is a felony to be prosecuted under appropriate State law.

(ORC 2909.06)

642.04 CRIMINAL MISCHIEF.

(a) Prohibitions: No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:

- A. The property of another;
 - B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
 - (i) The residential real property is subject to a mortgage.
 - (ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" including the time between judgment entry and confirmation of sale.
- (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 which 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;
 - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software or computer program, knowingly do any of the following:
 - A. In any manner or by any means including, but not limited to, computer hacking, alter, damage, destroy or modify a computer, computer system, computer network, computer software or computer program or data contained in a computer, computer system, computer network, computer software or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.

(b) Penalties: Whoever violates this section is guilty of criminal mischief, and shall be punished as follows:

- (1) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) 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 any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a felony to be prosecuted under appropriate State law.
- (2) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(6) of this section is misdemeanor of the first degree. Except as otherwise provided in this division, if the value of the computer, computer system, computer network,

computer software, computer program or data involved in the violation of division (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars (\$1,000) or more and less than ten thousand dollars (\$10,000), or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of division (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, criminal mischief committed in violation of division (a)(6) of this section is a felony to be prosecuted under appropriate State law. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section or the loss to the victim resulting from the violation is ten thousand dollars (\$10,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of physical harm to any person or the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(a) of this section is a felony to be prosecuted under appropriate State law.

(c) Definitions: 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 the protecting or preserving the safety of persons or property.

(ORC 2909.07)

642.05 CRIMINAL TRESPASS.

(a) Prohibitions: 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 conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(b) Defenses:

- (1) 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.
- (2) 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.

(c) Penalties:

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

- (2) Notwithstanding ORC 2929.28, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle or all-purpose vehicle, the court shall impose a fine of two times (2x) the usual amount imposed for the violation.
- (3) If an offender previously has been convicted of or pled guilty to two (2) or more violations of this section, ORC 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty (60) days. In such a case, ORC 4519.47 applies.

(d) Definitions: As used in this section:

- (1) “All-Purpose Vehicle,” “Off-Highway Motorcycle” and “Snowmobile” have the same meanings as ORC 4519.01.
- (2) “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)

642.06 AGGRAVATED TRESPASS.

(a) Prohibitions: 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 or her.

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

642.07 UNLAWFUL ENTRY ONTO PLACE OF PUBLIC AMUSEMENT.

(a) Prohibitions: No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in division (c)(1) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.

(b) Rights of Owner or Lessee: An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This division does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

(c) Notice:

- (1) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this division

regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

- A. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
 - B. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the place of public amusement is restricted.
- (2) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in division (c)(1) of this section, the City, in a criminal prosecution for a violation of division (a) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

(d) Penalties:

- (1) Whoever violates division (a) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.
- (2) In addition to any jail term, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (d)(1) of this section, a court may require an offender who violates this section to perform not less than thirty (30) and not more than one hundred and twenty (120) hours of supervised community service work.

(e) Definitions: As used in this section, “place of public amusement” means a stadium, theater, or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(ORC 2911.23)

642.08 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) Prohibitions: 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.

(ORC 901.51)

(b) Penalties:

- (1) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 901.99)
- (2) In addition to the penalty provided in division (b)(1) of this section, whoever violates this section is liable in treble damages for the injury caused.
(ORC 901.51)

642.09 IMPROPER REMOVAL OF IMPROVEMENTS FROM MORTGAGED PROPERTY.

(a) Prohibitions: No person having an interest in real property, buyer, lessee, tenant or occupant of real property, knowing that such real property is mortgaged or the subject of a land contract, shall remove, or cause or permit the removal of, any improvement or fixture from such real property without the consent of the mortgagee, vendor under the land contract or other person authorized to give such consent.

(ORC 5301.61)

(b) Penalties: Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 5301.99)

642.10 VEHICULAR VANDALISM; RAILROAD VANDALISM.

(a) Vehicular Vandalism:

- (1) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:
 - A. Any vehicle on a highway;
 - B. Any boat or vessel on any of the waters in this State.
- (2) Whoever violates division (a)(1) this section is guilty of vehicular vandalism. Except as otherwise provided in this division (a)(2), vehicular vandalism is a misdemeanor of the first degree. If the violation of division (a)(1) of this section creates a substantial risk of physical harm or causes physical harm or serious physical harm to any person or if the violation of division (a)(1) of this section causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate State law.
- (3) As used in this division:
 - A. "Alley," "Street," and "Vehicle" have the same meanings as in ORC 4511.01.
 - B. "Highway" means any highway as defined in ORC 4511.01 or any lane, road, street, alley, bridge or overpass.
 - C. "Vessel" and "Waters of this State" have the same meanings as in ORC 1546.01. (ORC 2909.09)

(b) Railroad Vandalism:

- (1) No person shall knowingly, and by any means, drop or throw any object at, onto or in the path of any railroad rail, railroad track, locomotive, engine, railroad car or other vehicle of a railroad company while such vehicle is on a railroad track.
- (2) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car or other vehicle of a railroad company when it is on a railroad track.
- (3) No person, without privilege to do so, shall disrupt, delay or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
- (4) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.
- (5) Whoever violates division (b)(1) of this section is guilty of railroad vandalism. Whoever violates division (b)(2) of this section is guilty of criminal trespass on a locomotive, engine railroad car or other railroad vehicle. Whoever violates division (b)(3) of this section is guilty of interference with the operation of a train.
- (6) Except as otherwise provided in this division (b)(6), railroad vandalism; criminal trespass on a locomotive, engine, railroad car or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this division (b)(6), if the violation of division (b)(1), (b)(2) or (b)(3) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.
- (7) Whoever violates division (b)(4) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree. (ORC 2909.10)

(c) Railroad Grade Crossing Device Vandalism.

- (1) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign or other advance pavement marking.
- (2) Whoever violates division (c)(1) this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device

vandalism is a misdemeanor of the first degree. Except as otherwise provided in this division (c)(2), if the violation of this section causes serious physical harm to property or creates substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.
(ORC 2909.101)

642.11 UNAUTHORIZED USE OF PROPERTY.

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

(b) Affirmative Defenses: The affirmative defenses contained in ORC 2913.03(C) are affirmative defenses to a charge under this section.

(c) Penalties: Whoever violates this section is guilty of unauthorized use of property.

(1) Except as otherwise provided in division (c)(2) or (3) of this section, unauthorized use of property is a misdemeanor of the fourth degree.

(2) Except as otherwise provided in division (c)(3) of this section, 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 whichever of the following is applicable:

A. Except as otherwise provided in division (c)(2)B. of this section, a misdemeanor of the first degree.

B. If the value of the property or services or the loss to the victim is one thousand dollars (\$1,000) or more, unauthorized use of property is a felony to be prosecuted under appropriate State law.

(3) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate State law.

(ORC 2913.04)

642.12 ENDANGERING AIRCRAFT.

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

(1) Knowingly throw an object at, or drop an object upon, any moving aircraft;

(2) Knowingly shoot with a bow and arrow, or knowingly discharge a firearm, air gun or spring-operated gun, at or toward any aircraft.

(b) Penalties: Whoever violates division (a) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates a risk of physical harm to any person or if the aircraft that is the subject of the violation is occupied, endangering aircraft is a felony to be prosecuted under appropriate State law.

(c) Definitions:

(1) "Air Gun" means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide or other gas.

(2) "Firearm" has the same meaning as in ORC Section 2923.11.

(3) "Spring-Operated Gun" means a hand pistol or rifle that propels a projectile not less than four or more than five millimeters (4 mm - 5 mm) in diameter by means of a spring.

(ORC 2909.08)

642.13 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH OR JUNK.

(a) Prohibitions: No person shall, regardless of intent, throw, drop, discard, place, or deposit litter, garbage, rubbish, junk or unsolicited flyers, mailers, circulars or other printed material, or cause litter, garbage, rubbish, junk or unsolicited flyers, mailers, circulars or other printed material to be thrown,

dropped, discarded, placed, or deposited on any public property or on the private property of another person or in or on any waters of the State, the City, or waters of another person, except in receptacles provided therefor unless the person has:

- (1) Been directed to do so by a public official as part of a litter collection program;
- (2) Discarded the material in accordance with a permit or license issued pursuant to ORC Chapter 3734. or Chapter 6111.; or
- (3) Deposited the material in a transfer station designated by the City in accordance with City ordinance and any rules promulgated thereunder.

(b) Penalties: Whoever violates this section is guilty of a minor misdemeanor on the first offense. If the offender has previously been convicted of or pled guilty to two (2) violations of this section, the offender is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of or pled guilty to three (3) or more violations of this section, the offender is guilty of a misdemeanor of the first degree.

(c) Definitions: As used in this section:

- (1) “Garbage,” “Junk,” “Litter” and “Rubbish” shall be defined as provided in Section 642.15.
- (2) “Person” includes both individuals and corporations.

(Ord. 2018-12. Passed 04/26/18)

642.14 DIMINISHING OR INTERFERING WITH FORFEITABLE PROPERTY.

(a) Prohibitions: No person shall destroy, damage, remove or transfer property that is subject to forfeiture, or otherwise take any action in regard to property that is subject to forfeiture, with purpose to do any of the following:

- (1) Prevent or impair the State’s or City’s lawful authority to take the property into its custody or control under ORC Chapter 2981. or to continue holding the property under its lawful custody or control;
- (2) Impair or defeat the court’s continuing jurisdiction over the person and property;
- (3) Devalue property that the person knows, or has reasonable cause to believe, is subject to forfeiture proceeding under ORC Chapter 2981.

(b) Penalties: Whoever violates this section is guilty of interference with or diminishing forfeitable property. Except as otherwise provided in this division, interference with or diminishing forfeitable property is a misdemeanor of the first degree. If the value of the property is five hundred dollars (\$500) or more, interference with or diminishing forfeitable property is a felony to be prosecuted under appropriate State law.

(ORC 2981.07)

642.15 DEFINITIONS.

As used in this Chapter:

(a) “Computer,” “Computer Hacking,” “Computer Network,” “Computer Program,” “Computer Software,” “Computer System,” “Data” and “Telecommunications Device” have the same meanings as in ORC 2913.01.

(ORC 2909.01)

(b) Computer Contaminant. A computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record or transmit information within a computer, computer system or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (b)(1)

to (b)(4) of this section or of a type or kind similar to a type or kind described in divisions (b)(1) to (b)(4) of this section:

- (1) A group of computer programs commonly known as “viruses” and “worms” that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (2) A group of computer programs commonly known as “Trojans” or “Trojan horses” that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (3) A group of computer programs commonly known as “zombies” that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as “Denial of Service” or “Distributed Denial of Service” attacks;
- (4) A group of computer programs commonly known as “trap doors,” “back doors,” or “root kits” that are designed to bypass standard authentication software and that are designed to allow access to or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.
(ORC 2909.01)

(c) To “create a substantial risk of serious physical harm to any person” includes the creation of a substantial risk of serious physical harm to any emergency personnel, as defined in ORC 2909.01(B).
(ORC 2909.01)

(d) Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. It shall be taken to mean and include all table and kitchen refuse of every kind and description; also decaying vegetables and meats, or anything that will, or may, decompose and become offensive or dangerous to health.
(Ord. 2018-12. Passed 04/26/18)

(e) Internet. “Internet” has the same meaning as in ORC 341.42.
(ORC 2909.01)

(f) Junk. Scrapped materials such as glass, rags, paper, metal, or other scrap or waste material of whatsoever kind or nature, that is collected or accumulated for resale, salvage; disposal or storage; scrapped or worn-out vehicle parts, appliances, equipment or parts thereof, whether serviceable or not; or anything worn-out or fit to be discarded.
(Ord. 2018-12. Passed 04/26/18)

(g) 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, or any material that, if thrown or deposited as herein prohibited, would tend to create a nuisance or a danger to public health, safety or welfare.
(Ord. 2018-12. Passed 04/26/18)

(h) Occupied Structure. Any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent or other structure, vehicle or shelter, or any portion thereof, to which any of the following applies:

- (1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present.
- (2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not the person is actually present.
- (3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present.
- (4) At the time, any person is present or likely to be present in it.
(ORC 2909.01)

(i) Physical Harm to Persons. Any injury, illness or other physiological impairment, regardless of its gravity or duration.
(ORC 2901.01)

(j) Physical Harm to Property. Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. “Physical harm to property” does not include wear and tear occasioned by normal use.
(ORC 2901.01)

(k) Privilege. An immunity, license or right conferred by law, bestowed by express or implied grant, arising out of status, position, office or relationship, or growing out of necessity.
(ORC 2901.01)

(l) Property.

- (1) “Property” means any property, real or personal, tangible or intangible, and any interest or license in that property. “Property” includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. “Financial instruments associated with computers” include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
- (2) As used in division (1)(1) of this section, “trade secret” has the same meaning as in ORC 1333.61, and “telecommunications service” and “information service” have the same meanings as in ORC 2913.01.
- (3) As used in divisions (1)(1) of this section, “cable television service,” “computer,” “computer software,” “computer system,” “computer network,” “data,” and “telecommunications device” have the same meanings as in ORC 2913.01.
(ORC 2909.01)

(m) Risk. A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
(ORC 2901.01)

(n) Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.
(Ord. 2018-12. Passed 04/26/18)

(o) “Serious Physical Harm to Persons” and “Serious Physical Harm to Property” have the same meaning as in ORC 2901.01.

(p) Substantial Risk. A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
(ORC 2909.01)

642.99 PENALTIES.

Any violation of this Chapter for which no other penalty is provided shall be a minor misdemeanor.
(Ord. 2018-12. Passed 04/26/18)