Ordinance No. 939-2025

By Council Member Slife

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances by amending Section 511.111 as amended by Ordinance No. 974-13, passed December 1, 2014; and Section 551-991, as amended by Ordinance No. 545-2022, passed June 6, 2022, related to penalty for setting out large quantities of waste.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances are supplemented by amending Section 511.111 as amended by Ordinance No. 974-13, passed December 1, 2014 and Section 551-991, as amended by Ordinance No. 545-2022, passed June 6, 2022, to read, respectively, as follows:

Section 551.111 Setting out an Excessively Large Quantity of Waste for Collection Prohibited; Applicability; Penalty

(a) No person shall set out for collection on a parcel's tree lawn or other designated place for collection, in a manual collection zone, a quantity of solid waste, exceeding five (5) approved waste containers, twenty (20) bags of yard waste, twenty (20) bundles of brush or tree trunks, four (4) tires, or three (3) special waste items as described in division (b) of Section 551.05.

(b) No person shall set out for collection on a parcel's tree lawn or other designated place for collection, in an automated collection zone, a quantity of solid waste exceeding twenty (20) bags of yard waste, twenty (20) bundles of brush or tree trunks, four (4) tires, or three (3) special waste items as described in division (b) of Section 551.05.

(c) *Applicability.* The offenses established in this section are applicable without regard to whether the offender:

(1) Sets the waste out due to an eviction, a house or garage cleanout, or for any other reason;

(2) Uses or intends to use a public or private vendor or entity for its disposal;

(3) Sets out the waste for the purpose of staging it for eventual disposal.

(d) *Penalty.* Upon a first violation of this section, the Director of Public Works or designee shall cause written notification to the resident of the parcel on which the violation occurred, warning that the resident is in violation of this section, describing the regulations under this section and penalties for future violations. ~~Any~~ On a second or subsequent violation, any person who violates this section is liable for the civil infraction established under Section 551.991 and is guilty of a special misdemeanor for which the maximum penalty shall be three hundred fifty dollars ($350.00).

Section 551.991 Civil Infractions

(a) *Civil Enforcement System Established.* The City of Cleveland hereby adopts a civil enforcement system for the infractions established by this section. This civil enforcement system imposes monetary liability on the responsible parties as defined in division (m).

In addition to any other means of enforcement provided for in these Codified Ordinances, each of the following sections may be enforced through the issuance of a ticket to the responsible parties as defined in division (m):

(1) Section 551.04, division (d), relating to the early set out of waste.

(2) Section 551.04, division (e), relating to failing to remove a waste container after collection.

(3) Section 551.111, division (a) and division (b), relating to excessively large quantity of waste for collection, upon a second or subsequent violation after notice pursuant to division (d) of Section 551.111.

(4) Section 551.041, division (a), relating to automated waste collection and recycling infractions.

(5) Section 551.06, relating to responsibility to provide containers and location of containers.

Any person who violates any of the foregoing prohibitions has committed an infraction for which liability is imposed by division (b) upon the responsible parties as defined in division (m).

(b) *Liability Imposed.* Each owner of a parcel at which an infraction has occurred is liable to the City of Cleveland in the amounts established in divisions (f) and (g).

(c) *Noncriminal Offense; No Conviction.* The infractions established by this section are noncriminal. The imposition of liability upon the responsible parties under this section shall not be deemed a conviction for any purpose.

(d) *Other Costs and Penalties Not Abrogated.* Nothing in this section shall be construed as altering or limiting the effects of any other section of these Codified Ordinances, the criminal penalties imposed by any such other section, or the ability of a law enforcement officer to enforce those sections.

(e) *Tickets – Service; Contents.* If a violation of division (a) is observed by an employee of the Division of Waste Collection and Disposal or any other City employee whose duties include the enforcement of this section, then the Director of Public Works shall cause the responsible parties to be issued a ticket. The ticket shall be served by sending it via regular U.S. mail, postage prepaid, to the parcel owner(s) at the tax mailing address shown in the records of the County Recorder.

The date of mailing of the ticket shall be deemed to be the date of issuance of the ticket. If the mailing is unreturned, then it shall establish that the respondents were given actual or constructive notice of the imposition of liability under this section.

The ticket shall identify the parcel owner(s) as respondents. The ticket shall state that the respondents are responsible parties for the commission of a civil infraction under this section.

The ticket shall inform the respondents of the procedure to file an appeal and the time frame for filing it. The ticket shall state that failure to appeal the ticket or pay the costs imposed not later than twenty (20) days from the date of issuance of the ticket shall constitute a waiver of the right to contest the ticket and shall be considered an admission. The ticket shall further state that if the ticket is not appealed or paid in that

time frame, then a default finding of civil liability shall be imposed upon respondents for the costs established in divisions (f) and (g).

The ticket may be in any format that includes all of the elements required by this section.

(f) *Penalties Established.* The costs imposed by this section upon the responsible parties for the commission of an infraction contrary to division (a) shall be assessed in accordance with the following schedule:

Section	Civil Penalty
551.111, division (a)	$100.00 on a second or subsequent violation after notice pursuant to division (d) of Section 551.111. However, if the quantity of solid waste exceeds ten (10) approved waste containers, forty (40) bags of yard waste, forty (40) bundles or brush or tree trunks, eight (8) tires, or six (6) special waste items, the civil penalty shall be $350.00.
551.111, division (b)	$100.00 on a second or subsequent violation after notice pursuant to division (d) of Section 551.111. However, if the quantity of solid waste exceeds ten (10) approved waste containers, forty (40) bags of yard waste, forty (40) bundles of brush or tree trunks, or six (6) special waste items, the civil penalty shall be $350.00
551.04, division (d)	$100.00
551.04, division (e)	$100.00
551.041, division (a)	$100.00
551.06	$100.00

The costs established by this section are imposed upon the responsible parties both as civil penalties and to reimburse the City for a portion of the costs incurred by it in the enforcement of infractions, and for some infractions, the increased costs of solid waste disposal.

(g) *Late Penalties.* Late penalties shall be assessed in accordance with the following schedule:

(1) If the costs established in division (f) remain unpaid twenty (20) days after the ticket is issued or twenty (20) days after the conclusion of all appeals, an additional twenty dollars ($20.00) shall be assessed; and

(2) If the costs established in division (f) remain unpaid forty (40) days after the ticket is issued or forty (40) days after the conclusion of all appeals, an additional forty dollars ($40.00) shall be added to the twenty dollars ($20.00) assessed under division (g)(1) for a total additional penalty of sixty dollars ($60.00) in such a case.

(h) *Appeals – Timing*. Any respondent or other person who is potentially liable for the costs imposed by this section may appeal the imposition of liability to the Director of Public Works or his or her designee, which may include the Clerk of the Cleveland Municipal Court in his or her capacity as Parking Violations Bureau Administrator or otherwise, in the manner described in the ticket. As used in divisions

(h), (i) and (j) of this section, "Director" means the Director of Public Works or his or her designee.

The appeal shall be taken not later than twenty (20) days from the date of issuance of the ticket. Failure to appeal the ticket or pay the costs imposed within this time period shall constitute a waiver of the right to contest the ticket and shall be considered an admission.

(i) *Appeal – Process*. The Director shall establish an administrative appeal process for persons to appeal tickets issued under this section. The administrative appeal process shall allow the appellant the right to present appellant's case in person and may allow for evidence to be presented ex-parte. The strict rules of evidence applicable to courts of law shall not apply in any administrative hearing or ex-parte review. The ticket charging the offense shall constitute prima facie evidence that the offense identified in the ticket occurred and that the parcel owner(s) to whom the ticket was mailed are the responsible parties as defined in division (m) and are liable to the City of Cleveland for the costs imposed by this section.

If the Director finds by a preponderance of evidence that an appellant is liable under this section for the costs assessed, then the Director shall dismiss the appeal and order the appellant to pay the costs identified in the ticket.

If the Director finds by a preponderance of evidence that an appellant is liable under this section for the costs assessed but that there are reasons for the commission of the infraction that mitigate the offense, then the Director shall dismiss the appeal and order the appellant to pay the costs identified in the ticket, but may in the interest of equity reduce the costs assessed.

If the Director finds by a preponderance of evidence that the appellant is not liable under this section for the costs assessed, then the Director shall dismiss the ticket and grant the appeal.

(j) *Appeal of the Director's Decision*. Any person subject to an adverse decision of the Director may appeal that decision to the Board of Zoning Appeals. The notice of appeal shall be in writing and shall be filed with the Board of Zoning Appeals within ten (10) days of the decision of the Director. The Board shall approve, modify or annul the finding from which the appeal is taken.

(k) *Collection*. The costs imposed by this section may be enforced and collected by means of a civil action or any other means provided for in these Codified Ordinances or the Ohio Revised Code.

(l) *Rules and Regulations*. The Director of Public Works may issue rules and regulations to carry out the provisions of these sections, which shall be effective thirty (30) days after their publication in the *City Record*.

(m) *Definitions*. As used in this section:

(1) "Director" means the Director of Public Works and in the case of appeals, the Director of Public Works or his or her designee.

(2) "Owner" or "parcel owner" mean the person(s) shown in the records of the County Recorder as having legal title to the parcel on which someone has failed to adhere to division (a).

(3) "Person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(4) "Responsible party" and "responsible parties" has the same meaning as "owner" or "parcel owner".

Section 2. That existing Section 511.111 as amended by Ordinance No. 974-13, passed December 1, 2014 and Section 551-991, as amended by Ordinance No. 545-2022, passed June 6, 2022, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

CS:rns
8/13/2025

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READ FIRST TIME on AIGUST 13, 2025 **REPORTS**
and referred to DIRECTORS of Public Works, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Finance Diversity Equity and Inclusion

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CITY CLERK

READ SECOND TIME

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CITY CLERK

READ THIRD TIME

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PRESIDENT

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CITY CLERK

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APPROVED

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MAYOR

Recorded Vol. **112** Page_____

Published in the City Record_____

REPORT
after Second Reading

PASSAGE RECOMMENDED BY COMMITTEE ON
MUNICIPAL SERVICES AND PROPERTIES

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY COMMITTEE ON
FINANCE, DIVERSITY, EQUITY and INCLUSION

FILED WITH COMMITTEE