

ORDINANCE # O-24-2018

AN ORDINANCE TO ESTABLISH A CIVIL CITATION SYSTEM FOR THE VILLAGE OF BOLIVAR

WHEREAS, the Village of Bolivar wishes to establish a civil citation process for the enforcement of ordinances and codes enacted by the Village;

WHEREAS, after considering various options, the Village Council has decided to enact the civil citation system as outlined on the attached Exhibit A.

Now, therefore be it ordained by the Village Council the Village of Bolivar, Ohio, as follows:

SECTION 1. The Village Council for the Village of Bolivar hereby approves the establishment of a civil citation ordinance with the terms as outlined in Exhibit A.

READ: August 6, 2018, September 4, 2018, and October 1, 2018

PASSED: October 1, 2018

REBECCA HUBBLE, MAYOR

ATTEST:

MARIA APP, FISCAL OFFICER

Exhibit A
Civil Citation Procedures

(a) Civil Enforcement System Established. The Village of Bolivar 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:

Trash cans left out over 24 hours (Ordinance O-103-2014)	Class A
Littering in Village Roadways (Ordinance O-08-2008)	Class A
Water Sprinkling during non-designated times (Ordinance 434)	Class A
Vehicles parked on sidewalks (Ohio Revised Code 4511.68)	Class A
Cutting, trimming or abusing village trees	Class B
Tree Service performing services without a license	Class C

Zoning Violations (All Violations may be found in the Village of Bolivar Zoning Code, Enacted by Ordinance

Any type of sign violation	Class A
Building a home without a permit	Class D
Erecting a storage building or placing a fence or deck without a permit	Class B
Junk Vehicles without a license plate	Class C

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 Village of Bolivar 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 Village of Bolivar Ordinances or Codes, the criminal penalties imposed by any such other ordinances or codes, or the ability of a law enforcement officer to enforce the same.

(e) Tickets – Service; Contents. If a violation of division (a) is observed by any Village employee whose duties include the enforcement of this section, then the Village Administrator 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 or as set forth in the records of the Village of Bolivar.

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 person who has committed a violation 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:

Civil Fines Schedule

CLASS	1st Offense	2nd Offense	3rd Offense	Sent to Collections
A	\$0/Written Warning	\$25.00	\$50.00	\$100.00
B	\$50.00	\$75.00	\$150.00 and sent to Collection upon Third Offense	
C	\$150.00	\$300.00	\$500.00 and sent to Collection upon Third Offense	
D	\$500.00	\$1,000.00	\$1,250.00 and sent to Collection upon Third Offense	

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

Payment of the fine assessed hereunder shall be considered to be an admission that the respondent committed the offense.

(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 Village Administrator or his or her designee, or otherwise, in the manner described in the ticket. As used in divisions (h), (i) and (j) of this section, “Village Administrator” means the Village Administrator 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 Village Administrator shall establish an administrative appeal process for persons to appeal tickets issued under this ordinance. 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 Village of Bolivar for the costs imposed by this ordinance.

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

If the Village Administrator finds by a preponderance of evidence that an appellant is liable under this ordinance for the costs assessed but that there are reasons for the commission of the infraction that mitigate the offense, then the Village Administrator 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 Village Administrator finds by a preponderance of evidence that the appellant is not liable under this ordinance for the costs assessed, then the Village Administrator shall dismiss the ticket and grant the appeal.

(j) Appeal of the Village Administrator’s Decision. Any person subject to an adverse decision of the Village Administrator may appeal that decision to the Village Council. The notice of appeal shall be in writing and shall be filed with the Village Council within ten (10) days of

the decision of the Village Administrator. The Village Council shall approve, modify or annul the finding from which the appeal is taken.

(k) Collection. The costs imposed by this ordinance 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. It is expressly authorized by the Village Council of Bolivar that the Village shall have the ability to certify any cost and penalty issued under this ordinance to the Tuscarawas County Auditor to be placed upon the respondent's property taxes as an assessment. This shall only be permitted once the time for appeals hereunder has expired and any pending appeals are resolved.