

ORDINANCE NO. 1445-2024

AN ORDINANCE AMENDING SECTION 453.04 “PARKING TICKET, SERVICE, AND LIABILITY,” SECTION 453.05 “ANSWERS; PROCEDURES,” SECTION 453.06 “FAILURE TO ANSWER,” SECTION 453.07 “HEARING PROCEDURE,” SECTION 453.09 “NONLIABILITY OF OWNER,” AND SECTION 453.10 “PARKING TICKET ADOPTED” OF PART FOUR, TITLE EIGHT OF THE CODIFIED ORDINANCES OF THE VILLAGE OF PUT-IN-BAY AND DECLARING AN EMERGENCY.

WHEREAS, the safe and efficient flow of traffic in the Village of Put-in-Bay is critical to the safety of Village residents and visitors and to ensure access to businesses; and

WHEREAS, parking regulations and enforcement of violations are necessary to provide adequate parking for residents and visitors to ensure access to businesses and the village, mitigate traffic congestion, and to ensure the safety of Village residents and visitors; and

WHEREAS, this Council determines that the use of electronic parking tickets, adequate sanctions, and flexibility in methods of providing notice are all necessary in order to ensure adequate enforcement of parking infractions; and

WHEREAS, this Council desires to amend Section 453.04 “Parking Ticket, Service, and Liability,” Section 453.05 “Answers; Procedures,” Section 453.06 “Failure to Answer,” Section 453.07 “Hearing Procedure,” Section 453.09 “Nonliability of Owner,” and Section 453.10 “Parking Ticket Adopted” of Part Four, Title Eight of the Codified Ordinance of the Village of Put-in-Bay to conform to the use of electronic parking tickets, provide for adequate sanctions and allow for flexibility in the methods for providing notice of infractions.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Put-in-Bay, Ottawa County, State of Ohio that:

**SECTION 1:** Section 453.04 “Parking Ticket, Service, and Liability,” Section 453.05 “Answers; Procedures,” Section 453.06 “Failure to Answer,” Section 453.07 “Hearing Procedure,” Section 453.09 “Nonliability of Owner,” and Section 453.10 “Parking Ticket Adopted” of Part Four, Title Eight of the Codified Ordinances shall be amended as described in **Exhibit A** attached hereto.

**SECTION 2:** This Ordinance shall replace and supersede any and all prior versions of Section 453.04 “Parking Ticket, Service, and Liability,” Section 453.05 “Answers; Procedures,” Section 453.06 “Failure to Answer,” Section 453.07 “Hearing Procedure,” Section 453.09 “Nonliability of Owner,” and Section 453.10 “Parking Ticket Adopted” of Village of Put-in-Bay Codified Ordinances.

**SECTION 3:** All formal actions of the Council of the Village of Put-in-Bay concerning and relating to the adoption of this ordinance were taken in open meetings in compliance with all requirements of Section 121.22 of the Ohio Revised Code.

SECTION 4: This ordinance is deemed an emergency measure necessary for the health, safety, and welfare of the residents of the Village of Put-in-Bay, Ohio, and for the further reason that this Ordinance is required to be immediately effective in order to provide for the implementation of electronic parking tickets and the adequate enforcement of parking violations. Therefore, it shall take effect and be in force immediately from and after its passage.

Passed: \_\_\_\_\_, 2024

Attest: \_\_\_\_\_  
Fiscal Officer

Approved: \_\_\_\_\_, 2024

\_\_\_\_\_  
Judy Berry, Mayor

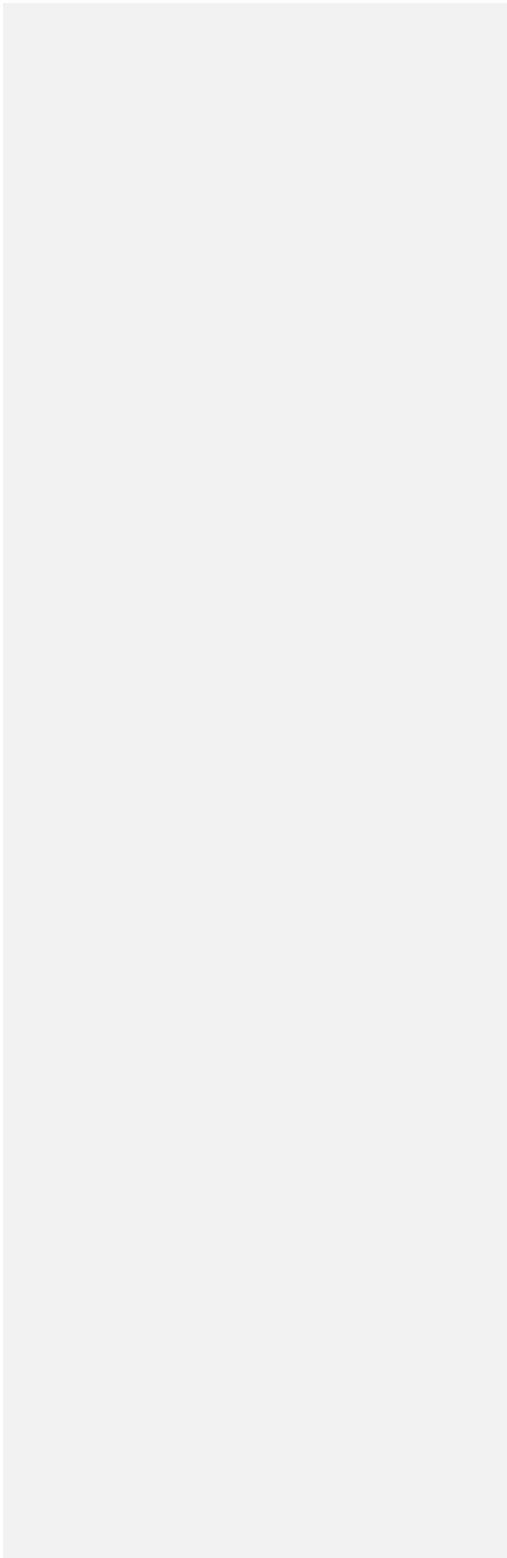


EXHIBIT A

**453.04 PARKING TICKET, SERVICE, AND LIABILITY.**

(a) The parking ticket adopted in Section [453.10](#) hereof shall be used by law enforcement officers in all cases in which a person is charged with committing a parking infraction within the Village. The parking ticket shall be the summons and complaint for purposes of this chapter.

(b) (1) A law enforcement officer who issues a parking ticket for a parking infraction shall complete the ticket by identifying the parking infraction charged, recording the license plate number, type, and make or model of the vehicle, and indicating the date, time, and place of the parking infraction charged. The officer shall sign, either physically or electronically, the ticket and affirm the facts it contains and file a copy with the Violations Clerk. If the operator of the vehicle is present, the officer also shall personally serve the parking ticket upon the operator. If the operator of the vehicle is not present, the officer shall constructively serve the parking ticket upon the owner of the vehicle by affixing the ticket to the vehicle in a conspicuous place.

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**Deleted:** insert the word "owner" in the space provided on the ticket for identification of the offender, and then shall

(2) Constructive service of a parking ticket upon an owner of a vehicle by affixation as provided in this division, or by the procedure described in division (d) of this section, has the same force and effect, and potentially subjects both the owner and the operator of the vehicle whose act or omission resulted in the parking infraction, if different, to the same fine, penalties, fees, and costs for failure to timely answer or to appear, if a hearing is requested, as if the parking ticket were personally served on both the owner and operator of the vehicle at the time of the violation.

(c) The original of a parking ticket issued pursuant to this section or any true copy of it shall be considered a record kept in the ordinary course of business of the Village and of the law enforcement agency whose officer issued it and shall be prima-facie evidence of the facts it contains.

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(d) An operator of a vehicle who is not the owner of the vehicle, but who operates it with the express or implied permission of the owner is the agent of the owner for purposes of the receipt of parking tickets served in accordance with this section, and personal service of a parking ticket upon the operator in accordance with this section constitutes constructive service upon the owner for purposes of this chapter. The operator of a rented or leased vehicle whose act or omission resulted in an alleged parking infraction shall not be considered an agent of the owner if the owner is engaged in the business of renting or leasing vehicles pursuant to a written rental or lease agreement and if the owner follows the procedures set forth in Section [453.09](#) hereof.

(e) Except as provided in Section [453.09](#) hereof, when a parking ticket is issued for a parking infraction and is served pursuant to this section, the operator of the vehicle whose act or omission resulted in the parking infraction for which the ticket was issued and the owner of the vehicle involved in the parking infraction, if different, are jointly liable for the parking infraction and any fine, penalty, fees, and costs arising out of the parking infraction. Any owner of a vehicle who pays any fine, penalty, fees, and cost imposed for a parking infraction pursuant to this chapter may recover the amount paid from the operator of the vehicle whose act or omission resulted in the parking infraction.

(Ord. 962-09. Passed 6-8-09.)



#### **453.05 ANSWERS; PROCEDURES.**

(a) A person who is personally or constructively served with a parking ticket charging the commission of a parking infraction may answer the charge by appearing personally before the Parking Violations Bureau or by mail. An answer shall be made within ten days from the date of the infraction and shall be in one of the following forms:

(1) An admission that the person committed the parking infraction, by payment of any fine arising out of the parking infraction;

(2) An admission that the person committed the parking infraction, with an explanation of the circumstances surrounding the parking infraction;

(3) A denial that the person committed the parking infraction and a request for a hearing relative to the infraction. If the person desires the presence, at the hearing, of the law enforcement officer who issued the parking ticket, the person must request his presence in his answer.

(b) (1) A person who admits that he committed a parking infraction shall, and a person who admits that he committed a parking infraction with explanation may, when he makes his answer, pay the fine arising out of the infraction admitted to the Violations Clerk of the Parking Violations Bureau.

(2) A person who admits that he committed a parking infraction with explanation shall submit evidence to the Parking Violations Bureau that explains the circumstances surrounding the parking infraction. The evidence may be submitted in person or, to avoid the necessity of personal appearance, may be sent as affidavits and other documentary evidence, by mail. The Parking Violations Bureau, when it receives an answer admitting that a person committed a parking infraction with explanation, shall promptly determine whether the explanation mitigates the fact that the person committed the parking infraction and notify the person, in writing, of its determination.

If the Parking Violations Bureau determines that the explanation mitigates the fact that the person committed the parking infraction, the Parking Violations Bureau shall eliminate or reduce the amount of the fine arising out of the parking infraction. If the fine is eliminated or reduced and the person has previously paid the fine, the amount paid in excess of the revised fine shall be returned to the person; if the fine is eliminated or reduced and the person has not previously paid the fine, the person shall pay only the amount of the revised fine. If the Parking Violations Bureau determines that the explanation does not mitigate the fact that the person committed the parking infraction, the person owes the entire amount of the fine arising out of the parking infraction, and if the person has not previously paid the fine, the person shall pay the entire amount of the fine. If a person admits that he committed a parking infraction with explanation and the person fails to pay the amount of the fine due within ten days after receiving notice of the Parking Violations Bureau's determination, unless the amount due has previously been paid, the Parking Violations Bureau's determination and the amount of the fine due shall be considered a judgment and shall be treated as if it were a judgment rendered subsequent to a hearing held pursuant to Section [453.07\(d\)](#) hereof.

(3) A person who denies that he committed a parking infraction shall be granted a hearing concerning the infraction. The Parking Violations Bureau shall set a date for the hearing and notify the person, in writing, of the date, time, and place of the hearing. The hearing shall be

conducted by a hearing examiner of the Parking Violations Bureau in accordance with Section [453.07](#) hereof.

(c) If a person who is personally or constructively served with a parking ticket charging the commission of a parking infraction fails to timely answer the charge, as provided in division (a) of this section, the Parking Violations Bureau shall issue the proper notifications of infraction pursuant to Section [453.06](#) hereof, and proceed according to that section. Failure to answer the charge within the ten-day period provided by division (a) of this section shall result in the imposition of an additional penalty of ~~twenty-five~~ dollars (~~\$25.00~~).

(d) The issuance of a parking ticket, the filing of or failure to file an answer by a person personally or constructively served with the ticket, the substance of an answer, the payment of any fine, penalty, fee, and cost, and any other relevant information shall be entered in the records of the Parking Violations Bureau.  
(Ord. 962-09. Passed 6-8-09.)

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#### 453.06 FAILURE TO ANSWER.

(a) When a person is personally or constructively served with a parking ticket charging the commission of a parking infraction in accordance with Section [453.04](#) and the person fails to answer the charge within the time specified in Section [453.05](#), the Parking Violations Bureau shall send notifications of infractions as follows:

(1) If the person who fails to answer was the operator of the vehicle involved in the parking infraction at the time of the commission of the parking infraction and was personally served with the parking ticket, a notification of infraction shall be sent to that person, and additionally, if such person is not the owner of the vehicle, as determined from the records of the Bureau of Motor Vehicles, a notification of infraction also shall be sent to the owner at his most recent address appearing in such records;

(2) If the person who fails to answer was the owner of the vehicle and was constructively served with the parking ticket, a notification of infraction shall be sent to the owner at his most recent address appearing in the records of the Bureau of Motor Vehicles.

(b) A notification of infraction shall be sent within 12 months after the expiration of the time specified in Section [453.05](#) for the making of an answer, shall be sent by first class mail or commercial common carrier, and shall contain all of the following:

(1) An identification of the parking infraction with which the person was charged and the time and date of the parking infraction, which identification may be a copy of the parking ticket charging the parking infraction that was personally or constructively served upon the person;

(2) An identification of the amount of the fine, penalties, fees, out of the parking infraction that are due;

(3) A warning that the person must answer the parking infraction charged in the ticket within 30 days or a default civil judgment in the amount of the fine, penalties, fees, and costs due may be entered against the person;

(4) A description of the allowable answers that may be made and notification that the person will be afforded a hearing before the Parking Violations Bureau if he denies in his answer that he committed the parking infraction;

(5) An identification of the manners in which and the entity to which an answer may be made;

(6) A warning that if the person fails to appear at a requested hearing, a default civil judgment in the amount of the fine, penalties, fees, and costs due may be entered against the person;

(7) A warning that renewal or transfer of the registration of the vehicle involved in the parking infraction, if the vehicle is registered in this State, may be denied as provided in Ohio R.C. 4521.10 for nonpayment of judgments or default judgments entered pursuant to this chapter.

(c) A person who receives a notification of infraction pursuant to this section may answer the parking infraction with which he is charged that is identified in the notification of infraction in any of the manners provided in Section [453.05](#)(a) for answers to parking infractions charged in a parking ticket. An answer under this section shall be made within 30 days after the date on which the notification of infraction was mailed or sent, and shall be in one of the forms specified in Section [453.05](#)(a)(1), (2), and (3) for answers to parking infractions charged in a

parking ticket, except that if the answer includes payment of the fine arising out of the parking infraction any penalty, fee, or cost arising out of such infraction also shall be paid. The answer shall be governed by the provisions of Section [453.05\(b\)](#) hereof for answers relative to parking infractions charged in a parking ticket, except that any determination of the amount to be paid under an answer admitting the commission of the parking infraction with explanation also shall consider any penalty, fee, or cost arising out of such infraction.

(d) If a person who is issued a notification of infraction pursuant to Ohio R.C. 4521.07, and division (c) of this section, fails to timely answer, the failure to answer shall be considered an admission that the person committed the parking infraction, and a default civil judgment, in the amount of the fine, penalties, fees, and costs due may be entered against the person. Failure to answer the parking infraction within 30 days after the date on which the notification of infraction was mailed shall result in the imposition of an additional penalty of twenty-five dollars (\$25.00).

(e) The sending of a notification of infraction, the filing of or failure to file an answer by the person to whom it is sent, the substance of an answer, the payment of any fine, and any other relevant information shall be entered in the records of the Parking Violations Bureau.  
(Ord. 962-09. Passed 6-8-09.)



#### 453.07 HEARING PROCEDURE.

(a) (1) If a person who is personally or constructively served with a parking ticket charging the commission of a parking infraction or who receives a notification of infraction, in his answer to the charge denies that he committed the infraction, the Parking Violations Bureau shall conduct a hearing to determine if the person committed the parking infraction. Each hearing shall be conducted by a hearing examiner of the Parking Violations Bureau. Each hearing shall be conducted in such manner as the hearing examiner considers appropriate. Rules regarding the admissibility of evidence shall not be strictly applied in the hearing, but all testimony shall be under oath.

(2) At the hearing, the Village has the burden of proving, by a preponderance of the evidence, that the person for whom the hearing is being conducted committed the parking infraction. If the person, in his answer, denied that he committed the parking infraction and requests the presence at the hearing of the law enforcement officer who issued the parking ticket, the officer shall be required to attend the hearing unless the hearing examiner determines that the officer's presence is not required. If the officer's presence at the hearing has been requested and the officer is unable to attend the hearing on the day and at the time scheduled, the hearing examiner may grant a reasonable continuance. The person for whom the hearing is being conducted may present any relevant evidence and testimony at the hearing. The person does not have to attend the hearing if he submits documentary evidence to the hearing examiner prior to the day of the hearing.

(3) The Village shall submit the original or a true copy of the parking ticket that was personally or constructively served on the person, and information from the Bureau of Motor Vehicles that identifies the owner of the vehicle. The ticket and the information in proper form is prima-facie evidence that the registered owner of the vehicle was the person who committed the parking infraction. The Village may present additional evidence and testimony at the hearing. The Village does not have to be represented at the hearing by an attorney.

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(b) (1) If a person for whom a hearing is to be conducted under division (a) of this section appears at the scheduled hearing or submits evidence in accordance with that division, the hearing examiner shall consider all evidence and testimony presented and shall determine whether the Village has established, by a preponderance of evidence, that the person committed the parking infraction. If the hearing examiner determines that the person committed the infraction, an order indicating the determination as a judgment against the person and requiring the person to pay the appropriate fine and any additional penalties, fees, and costs shall be entered in the records of the Parking Violations Bureau.

(2) If a person for whom a hearing is to be conducted under division (a) of this section fails to appear at the scheduled hearing and fails to submit evidence in accordance with that division, the hearing examiner shall, if he determines from any evidence and testimony presented at the hearing, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties, fees, and costs. A default judgment entered under this division shall be entered in the records of the Parking Violations Bureau.

(3) If a person who is sent a notification of infraction pursuant to Section 453.06 hereof does not timely answer, as provided in division (c) of that section, the hearing examiner of the

Parking Violations Bureau shall, if he determines from any evidence and testimony presented to him by the local authority, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties, fees, and costs. A default judgment entered under this division shall be entered in the records of the Parking Violations Bureau.

(4) If the hearing examiner does not determine, by a preponderance of the evidence, that a person in any of the classes described in division (b)(1), (2), or (3) of this section committed the parking infraction, the hearing examiner shall enter judgment against the Village, shall dismiss the charge of the parking infraction against the person, and shall enter the judgment and dismissal in the records of the Parking Violations Bureau.

(5) A default judgment entered under this section may be vacated by the hearing examiner who entered it if all of the following apply:

A. The person against whom the default judgment was entered files a motion with the Parking Violations Bureau within one year of the date of entry of the judgment;

B. The motion sets forth a sufficient defense to the parking infraction out of which the judgment arose;

C. The motion sets forth excusable neglect as to the person's failure to attend the hearing or answer the notification of infraction.

(c) (1) Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the Violations Clerk of the Parking Violations Bureau in which the judgment was entered within ten days of the date of entry. All money paid in satisfaction of a judgment of default judgment shall be disbursed by the Violations Clerk to the Village and the Violations Clerk shall enter the fact of payment of the money and its disbursement in the records of the Parking Violations Bureau. If payment is not made within this time period, the judgment or default judgment may be filed with the office of the Ottawa County Clerk of Court, Civil Division, and when so filed, shall have the same force and effect as a money judgment in a civil action rendered in the Court.

(2) As required by Ohio R.C. 4521.08(C), judgments and default judgments filed with the Put-in-Bay Mayor's Court, office of the Clerk of Court, Civil Division, shall be maintained in a separate index and judgment roll from other judgments rendered in that Court. Computer printouts, microfilm, microdot, microfiche, or other similar data recording techniques may be utilized to record such judgments. When a judgment or default judgment is filed with the Court, execution may be levied, and such other measures may be taken for its collection as are authorized for the collection of an unpaid money judgment in a civil action rendered in that Court. The Mayor's Court may assess additional costs against the judgment debtor, in an amount not exceeding twenty-five dollars (\$25.00) for each parking infraction, to be paid upon satisfaction of the judgment.

(d) (1) Any person against whom a judgment or default judgment is entered pursuant to this section, and the Village of Put-in-Bay if judgment is entered against the Village pursuant to this section, may appeal the judgment or default judgment to the Ottawa County Municipal Court by filing notices of appeal with the Parking Violations Bureau and the Municipal Court within 15 days of the date of entry of the judgment and by the payment of such reasonable costs as the Court requires. Upon the filing of an appeal, the Court shall schedule a hearing date and notify the parties of the date, time, and place of the hearing. The hearing shall be held by the Court in

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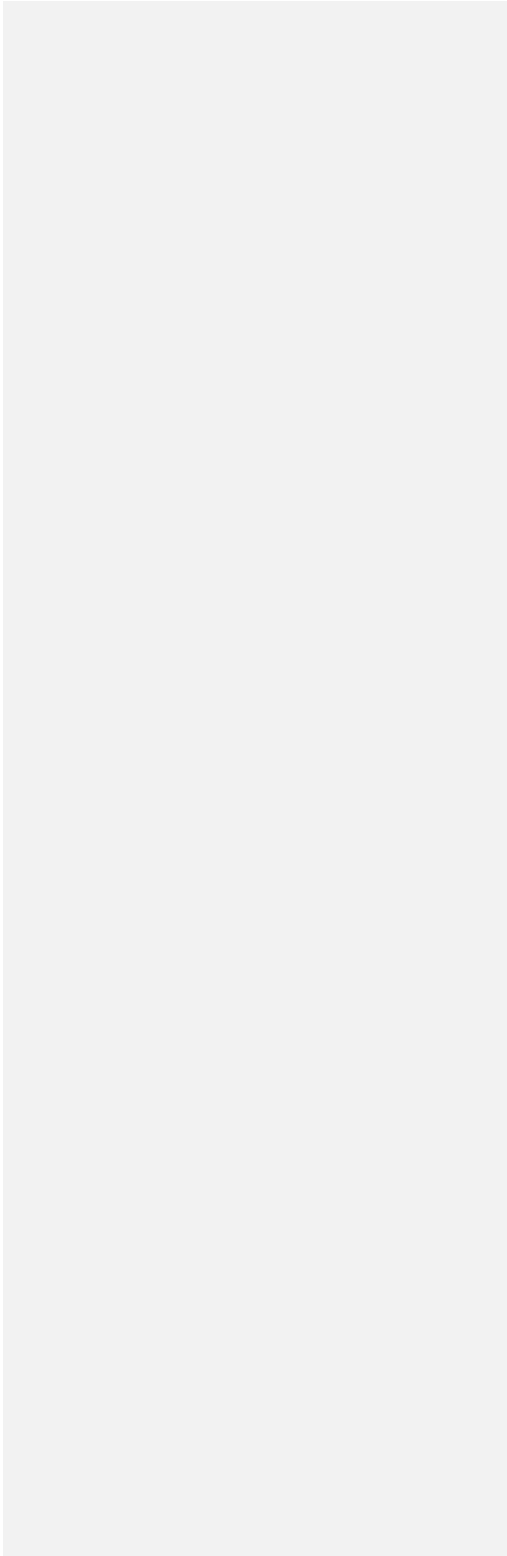
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accordance with the rules of the Court. Service of a notice of appeal under this division by a person does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the Parking Violations Bureau in the amount of the judgment, plus court costs, at or before service of the notice of appeal.

(2) Notwithstanding any other provision of law, the judgment on appeal of the Municipal Court is final, and no other appeal of the judgment of the Parking Violations Bureau and no appeal of the judgment of the Municipal Court may be taken.

(e) A judgment or default judgment entered pursuant to this section may be filed with the Court, and the office of the Ottawa County Clerk of Court, Civil Division, under division (c) of this section at any time within three years after the date of issuance of the parking ticket charging the parking infraction out of which the judgment arose. This division applies to any ticket issued for an offense that would be a parking infraction on or after the effective date of this section, if the ticket was issued within three years prior to the effective date of this section and a warrant has not been issued and served on the operator or owner of the vehicle involved in that offense.

(Ord. 962-09. Passed 6-8-09.)



#### 453.09 NONLIABILITY OF OWNER.

(a) An owner of a vehicle is not jointly liable with an operator of the vehicle whose act or omission resulted in a parking infraction for the parking infraction or any fine, penalty, fee, processing fee, or cost arising out of the parking infraction under this chapter if either of the following apply:

(1) The owner answers the charge of the parking infraction under Sections [453.05](#) or [453.06](#) hereof, the answer denies that he committed the infraction and requests a hearing concerning the infraction, the owner additionally asserts and provides reasonable evidence at that time to prove that the vehicle, at the time of the commission of the parking infraction, was being used by the operator without the owner's express or implied consent, and the Parking Violations Bureau determines that the vehicle was being used without the owner's express or implied consent at that time. If the Parking Violations Bureau does not so determine, it shall conduct the hearing concerning the infraction according to Section [453.07](#) hereof.

(2) The owner answers the charge of the parking infraction under Sections [453.05](#) or [453.06](#) hereof, the answer denies that he committed the parking infraction, the owner additionally submits evidence at that time that proves that, at the time of the alleged commission of the infraction, the owner was engaged in the business of renting or leasing vehicles under a written rental or lease agreements, and the owner additionally submits evidence, in accordance with division (b) of this section, that proves that, at the time of the alleged commission of the parking infraction, the vehicle in question was in the care, custody, or control of a person other than the owner pursuant to a written rental or lease agreement. If the owner does not so prove, the Parking Violations Bureau shall conduct a hearing relative to the infraction according to Section [453.07](#) hereof.

(3) The owner, at a hearing concerning the parking infraction conducted in accordance with Section [453.07](#) hereof, proves that the vehicle, at the time of the parking infraction, was being used by the operator without the owner's express or implied consent or proves the facts described in division (a)(2) of this section.

(b) (1) An owner of a vehicle who is engaged in the business of renting or leasing vehicles under written rental or lease agreements, but who does not satisfy the additional requirements of division (a)(2) of this section, is not liable for any penalties or processing fees arising out of a parking infraction involving the vehicle if, at the time of the commission of the parking infraction, the vehicle was in the care, custody, or control of a person other than the owner pursuant to a written rental or lease agreement, and if the owner answers the charge of the parking infraction by denying that he committed the parking infraction or by paying the fine arising out of the parking infraction within 30 days after actual receipt of the parking ticket charging the infraction or, if the owner did not receive the parking ticket, within 30 days after receipt of the notification of infraction.

(2) Proof that the vehicle was in the care, custody, or control of a person other than the owner pursuant to a written rental or lease agreement at the time of the alleged parking infraction shall be established by sending an affidavit to that effect, on the form prescribed by the [Parking Violations Bureau](#), to the [Parking Violations Bureau](#) within 30 days after receipt of the notification of infraction. The affidavit shall include the full name, address, phone number,

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driver license number, driver license issue state, and, if known, the telephone number and email address, of the person who had care, custody, or control of the vehicle at the time of the parking infraction. The submission of an affidavit shall be prima-facie evidence that a vehicle was in the care, custody, or control of a person other than the owner. Within 30 days of receipt of the affidavit, the Parking Violations Bureau shall return a receipted copy of the affidavit to the rental or lease company. In addition, any information required by division (a)(2) of this section may be provided electronically in a format acceptable to the Village or the Violations Clerk.

(Ord. 962-09. Passed 6-8-09.)

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**Deleted:** The affidavit authorized by this section shall be accompanied by a postage paid, self-addressed envelope, shall be in a form the Registrar of Motor Vehicles shall prescribe, and shall include space for the Parking Violations Bureau to indicate receipt of the affidavit.

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**453.10 PARKING TICKET ADOPTED.**

(a) The parking ticket to be used as the summons and complaint by law enforcement officers in all cases in which a person is charged with a parking infraction within the Village shall be in substantially the following form.

(b) Each parking citation issued shall contain the following information:

- (1) The address and phone number of the Put-in-Bay Parking Violations Bureau;
- (2) [Instructions on how the fine may be paid](#);
- (3) The procedure to contest the citation;
- (4) The specific ordinance allegedly violated with a description of the offense;
- (5) Any penalty for not paying the ticket within the time prescribed; and
- (6) Any other information as required by law.

(Ord. 962-09. Passed 6-8-09.)

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