

Mackenzie Reed-Kadow

From: Steve and Karen Olson <skolson4725@att.net>
Sent: Tuesday, August 14, 2018 8:25 AM
To: Elizabeth Majerus
Subject: Re: Forfeiture for Donation Bin Violations

Liz:

As written in your draft, I think the ordinance would be fine. As your discussion goes in this email below, I would have some significant concerns. Yet, most of those concerns are not for me to offer, given the adoption and wording of the ordinance are wholly within the province of Council/Mayor as the legislative branch of government. Yet, I offer them nonetheless and ask you forward on to Public Safety in your discretion.

First, I do understand why Council/Mayor may wish to enact an ordinance. I have seen some of these donation bins in a condition where they appear to be an overflowing dumpster or unmanaged recycling collection site. Yet, I'm presuming these donation bins are put out by property owners and/or organizations for positive reasons – to help the needy. Yet, all too many folks look at them as a way to avoid paying garbage hauling fees.

One concern I would have for a 'high-priced' annual fee or forfeiture is if this might be viewed as an attempt by the City to protect local organizations such as Salvation Army, St. Vincent de Paul, Goodwill and Repeat Performance, to list a few. Is that a proper use of City regulatory authority? Only guessing, but I would think anyone who wished to set out a donation bin probably would not given a high permit fee and the risk that, if they slipped up, they would get dinged so severely by an ordinance conviction that running the bin would not be profitable in their venture. Having said that, maybe a \$50/year permit fee might be reasonable and at least cover the cost for the City of the permitting process. Yet, I emphasis this is a Council/Mayor decision – these are only my personal thoughts.

As to a forfeiture schedule, unless a problem develops where a new enforcement mechanism isn't curbing the problem, I would think the current ordinance draft containing a \$500 maximum per violation + costs would be adequate. It would seem to me that such an amount would be sufficient to ensure compliance. If citations have been adjudicated and the problem continues with some particular proprietor, then maybe a revision to the forfeiture schedule would be appropriate.

As to a deposit amount (bond amount), where the Court does have input, I would think that setting it equivalent to most building code violations would be appropriate. A bond of \$250 or so would seem appropriate. Get the offender's attention, encourage compliance, yet be in line with other building code violations. At its heart after all, this is a building code type violation, not dissimilar to other ordinances designed to improve conditions for neighbors, etc. And, as in other ordinance citations, if enforcement officers are perceiving a unique problem, with authorization from the City Attorney's Office and a notation of that approval on the citation, the citation bond amount could deviate from the normal bond schedule up to the forfeiture maximum.

My thoughts.

Steve Olson

Manitowoc Municipal Court

From: Elizabeth Majerus

Sent: Tuesday, August 14, 2018 7:45 AM

To: Steve Olson ; 'Steve Olson'

Subject: Forfeiture for Donation Bin Violations

Good Morning Judge,

Last night, the Public Safety Committee reviewed a proposed ordinance regulating donation bins. The Committee has very strong feelings about this issue given the frequency and severity of dumping violations occurring at these drop off points. They've asked me to ask you what the highest forfeiture you'd agree to for violations would be. Attached is a copy of the draft as approved except that they'd like a super high permit fee (last night they moved for a \$5000 permit fee but that will need to be reduced, I think. I'm looking into the law on when a fee becomes over-burdensome or egregious after this email).

My suggestion would be to impose a forfeiture akin to that of prostitution as that is our highest forfeiture currently. Prostitution offenses are \$2581 including costs. I'd be open to going higher if you feel it appropriate though.

Thanks,

Liz

Elizabeth Majerus

Assistant City Attorney
City of Manitowoc
(920) 686-6990



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