

Background for Illegal Dumping Ordinance (File #100308)

During the summer of 2010, the Milwaukee Police Department's 5th District Community Liaison Officers worked with a private citizen who observed an illegal dumping of 80 cubic yards of concrete onto a City-owned vacant lot. Using the information provided by the citizen, the officers confronted the suspect who admitted his involvement. The only enforcement available to officers was a single littering ticket (\$120) and a trespassing ticket. The driver accepted this enforcement readily because it was far less than what would have been his disposal costs. Department of Public Works' (DPW) cost to remove the material was approximately \$5,000.

The officers contacted the Department of Neighborhood Services (DNS) asking for a new tool they could use that would act in a way of discouraging such large and even modest illegal dumping cases. The Milwaukee Police Department (MPD) estimates that approximately 5-10 such cases are made each year utilizing strategically placed cameras and citizen involvement. The purpose of this ordinance is to provide MPD with an increased penalty to discourage illegal dumping. In addition, as part of the development of the 2011 Budget, an amendment was passed to create a dumping hotline to encourage reporting of these crimes. A stiffer penalty would be desired to accompany this hotline effort.

The ordinance creates a definition for dumping in order to make it a distinct act from simple littering. The ordinance defines dumping as the depositing of solid waste in an amount greater than the capacity of a standard 20-gallon container on public or private property without the consent of the property owner. The fine imposed on such a perpetrator is not less than \$1,500 and not more than \$5,000. Each incidence of dumping constitutes a separate offense. The fine is imposed on the perpetrator, not the property owner where the dumping occurred.

Included in the ordinance is the statement that it is the responsibility of the property owner to remove the waste resulting from dumping activities. This is a restatement of current law and is based upon the responsibilities of property owners established in common law and the obligations of property owners to abate problems that are addressed in ordinances legitimately protecting the health safety and welfare of the public. The common law recognizes that a property owner is typically the party with the greatest interest in maintaining the property. Property owners have standing to sue in cases where property is damaged by the negligent or intentional conduct of other parties. Property owners also have an insurable interest and can protect themselves against a variety of risks, including those damages or injuries that are not caused by the fault of any party (i.e., "acts of God").