



INSTITUTE FOR JUSTICE

July 6, 2026

Via Email and USPS

South Milwaukee Mayor and Common Council
City of South Milwaukee
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Re: Code Violation issued against Sean Oster, TKN # 72801760000

To Mayor Briesemeister and members of the Common Council:

My name is James Odell, an attorney at the Institute for Justice (IJ). I write to you today about a code violation ticket, TKN # 7280176000, issued to Sean Oster by Code Enforcement inspector Ben Lang on May 20, 2026. IJ writes to express our concern that South Milwaukee's position that Mr. Oster cannot decorate his own lawn with some whimsical skeletons violates the First Amendment.

IJ is a national, non-profit public interest law firm that advocates on behalf of individuals and property owners nationwide. As part of its practice, IJ has brought successful lawsuits against municipalities that are trampling the First Amendment rights of property owners who are just trying to express themselves while bringing joy and personality to their neighborhoods. Just last year, IJ successfully sued Conway, New Hampshire for their attempt to force a bakery owner to remove a painted mural depicting a donut mountain. A federal court found that the bakery owner had a First Amendment right to display his mural and that the town of Conway's attempts to have him remove the mural "does not withstand *any* level of constitutional scrutiny." *Young v. Town of Conway, New Hampshire*, 783 Supp. 3d 588, 592 (D. N.H. 2025) (emphasis added). You can read about that litigation [here](#).

Nearly twenty years ago, the Seventh Circuit held that government officials who punished a homeowner for displaying decorative "tombstones" in his yard even after "Halloween came and went" violated the First Amendment. *Purtell v. Mason*, 527 F. 3d 615, 617 (7th Cir. 2008). The Seventh Circuit held that because the "display was...protected speech" the First Amendment prohibited government officials from forcing the homeowner to "dismantle[] the tombstone display." *Id.* at 619. The same law applies here: the First Amendment allows Mr. Oster to have his art display up year-round even if some city officials think skeletons can't celebrate Christmas, New Years, or St. Patrick's day.

The skeleton display Mr. Oster has on his lawn is a form of artistic expression. The Supreme Court has long held that artistic displays are protected speech under the First Amendment. *Hurley v. Irish American Gay, Lesbian, and Bisexual Group of Boston, Inc.*, 515 U.S. 557, 569 (1995) (remarking that painting, music, and poetry are “unquestionably shielded” under the First Amendment.); *Kaplan v. California*, 413 U.S. 115, 119-120 (1973) (finding that art such as “pictures, films, paintings, drawings, and engravings...have First Amendment protection.”). South Milwaukee’s attempt to abridge the speech of Mr. Oster by forcing him to take down the skeletons (or as he and his neighbors call them: Hector and Henrietta) is a clear violation of the First Amendment.

To whatever extent South Milwaukee believes it may regulate the aesthetics of the city, it has no right to try to control the *content* of Mr. Oster’s expressive speech. *Leibundguth Storage & Van Serv., Inc. v. Vill. of Downers Grove, Illinois*, 939 F. 3d 859, 862 (7th Cir. 2019) (finding that a municipality’s “aesthetic rule” cannot be justified if it “reference[s] the content or viewpoint of speech.”). But that’s exactly what South Milwaukee is doing here. By telling Mr. Oster that he can’t display the skeletons because a city official has decided that skeletons are “holiday...decorations” that are not being displayed “during the appropriate time of year” the city is enforcing an ordinance against Mr. Oster based on the *content* of his art display. South Milwaukee, Wisconsin, Code of Ordinances § 15.21(c)(7).

Mr. Oster has chosen to display skeletons, who are currently dressed in stars and spangles clothing to celebrate the Fourth of July, year-round. That earned him a fine that he would not have received if he instead chose to display an Uncle Sam statue or a giant inflatable bald eagle. This is punishment based on the *content* of speech (or here the *content* of an art display), which is as clear of a First Amendment violation as they come. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015) (invalidating city ordinance that regulated the contents of signs).

Mr. Oster’s skeletons are protected speech, but they’re also just harmless fun. South Milwaukee should recognize the “special respect for individual liberty in the home” that has “long been part of our culture and our law” and understand that they violate those principles by “seek[ing] to constrain” Mr. Oster’s “ability to speak” by having his chosen art display in his yard. *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994). “For decades, Americans have placed sparkling lights outside their homes, spread cobwebs in their shrubbery, displayed bats and witches in their yards and doorways, and hidden Easter eggs in their yards.” *Kennedy v. Avondale Estates, Ga.*, 414 F. Supp. 2d 1184, 1210 (N.D. Ga. 2005). Mr. Oster’s skeleton display communicates his “sense of whimsy, a communal spirit, and a desire to reconnect with traditions that bind the generations.” *Id.* The First Amendment protects that harmless artistic expression.

South Milwaukee City Council

July 6, 2026

Page 3 of 3

In light of that, we strongly urge you to reconsider the decision to fine Mr. Oster for the quirky contents of his constitutionally protected yard display. Hector and Henrietta aren't hurting anyone. Allowing Mr. Oster to keep them up not only protects his First Amendment rights but will also provide a "benefit to society" by making it clear the city of South Milwaukee is not in the business of punishing people for their harmless artistic expressions. *Bell v. Keating*, 697 F. 3d 445, 454 (7th Cir. 2012).

Sincerely,



James Odell

Attorney