

ORDINANCE NO. 2543**AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 44-907(2) OF THE CITY OF CUDAHY MUNICIPAL CODE TO ALLOW FRONT YARD FENCES TO BE RECONSTRUCTED IN CERTAIN CIRCUMSTANCES**

WHEREAS, the City of Cudahy regulates the construction and placement of fences as a permitted accessory use in Section 44-907 of the City Code; and

WHEREAS, fences are only able to be constructed beyond the front of any building or in any street yard in certain circumstances; and

WHEREAS, the City Code does not currently provide a mechanism for these fences beyond the front of any building or in a street yard to be reconstructed if they are destroyed; and

WHEREAS, the City Administrator recommended to the Common Council of the City of Cudahy that revisions to the City's fence ordinance be made to allow residents to reconstruct fences in the same location, height, and material if the fence is destroyed or irreparably damaged by a branch falling from a City of Cudahy tree, and the reconstruction is completed within 5 years of the damage being caused; and

WHEREAS, pursuant to Section 44-1351 of the City Code, the Common Council initiated this amendment, and on or about April 16, 2024, the City Plan Commission held a public hearing and recommended adoption of the amendment to the Common Council pursuant to Section 44-1353 and 44-1354 of the City Code; and

WHEREAS, on or about March 12, 2024, and upon careful consideration of the City Plan Commission's recommendation, the Common Council finds that these revisions to the City's fence ordinance will be a benefit to the health, general welfare, and safety of City of Cudahy residents by allowing them to reconstruct damaged or destroyed front yard fences within a specific time period.

NOW, THEREFORE, the Common Council of City of Cudahy, Milwaukee County, Wisconsin, does hereby ordain as follows:

SECTION 1. Chapter 44 of the City of Cudahy Municipal Code entitled "Zoning," Article V entitled "Accessory Uses", Section 44-907 entitled "Fences," Subsection (2) is hereby repealed and re-created as follows:

(2) No fence requiring a permit shall be constructed beyond the front of any building or in the street yard, except a decorative corner fence or where aesthetic considerations may require a fence or wall to screen a parking lot or other unattractive area, or to generally improve the aesthetics of a development. Such fence or wall may be erected by approval of the city plan commission, which approval may include design or other architectural requirements. Any legally existing front yard fence that is destroyed or irreparably damaged by a fallen branch from a City tree may be replaced or reconstructed in the same location, height and materials by first obtaining a permit, provided that it must be replaced or reconstructed within 5 years of being damaged or destroyed. Any individual applying for a reconstruction permit must prove that the damage was caused by a City tree and that it occurred within the previous 5 years.

SECTION 2. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portion thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect upon passage and publication as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Cudahy, Milwaukee County, Wisconsin, this _____ day of _____, 2024.

CITY OF CUDAHY

Thomas Pavlic, Mayor

Attest:

Kelly Sobieski, Director of Office Services, City Clerk/Treasurer

ADOPTED _____

APPROVED _____

PUBLISHED _____