ORDINANCE #2603-20 OF THE CITY OF BROOKFIELD, WISCONSIN

Committee: Legislative and Licensing
Committee Date: March 3, 2020
Committee Recommendation: Approval 5-0

Public Hearing: n/a
Council Date: March 17, 2020
Council Action: 12-0

Repeal and recreate provisions of the Fence Code, §15.04.340. regarding special needs fences and fence permit processing.

The Common Council of the City of Brookfield do ordain as follows:

PART I. Section 15.04.340.B.11. is repealed and recreated to read as follows:


a. For this paragraph, “special needs” means a physical or mental impairment that substantially limits one or more major life activities of an individual; a record of such impairment; or being regarded as having such an impairment. “Major life activities” includes, seeing, hearing, learning, concentrating, thinking, communicating, and brain functions, but is purposefully not as broad as the definition found in §42 USC 12102, Definition of Disability.

b. The Director shall issue a fence permit for properties where a special needs individual resides who has a documented need for an enclosed yard area, subject to the provisions of this paragraph and subsections 15.04.340.C, D, F, and I. All fence permits shall automatically expire five years after issuance, but shall expire sooner on the date that the need for the fenced yard no longer exists, the special needs individual no longer resides there, or the property is sold. Upon expiration, the fence shall be removed within 15 days, unless the permit is renewed or another permit under this paragraph is issued for the property.

c. To apply for a fence permit under this paragraph, an applicant shall provide independent medical certification that a resident of the property has special needs and their safety, health, and welfare would benefit from an enclosed yard area and an executed fence removal covenant from the property owner. The covenant will be recorded by the city at the applicant’s cost, obligating the property owner to remove the fence upon the expiration of the permit. The permit renewal process shall be the same as the application process, including a permit fee, except the removal covenant will not be required. Upon proof of removal of the fence, the city shall release its interest in the covenant. The medical certification and the covenant shall be on the city’s form.

d. The fence shall conform to the following:
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i. Location. Fenced enclosures shall be placed in the rear of the home in a manner that preserves existing vegetation to create continuous, natural screening of the fence or provides room for a planting screen as required in subdivision v.

ii. Materials and Design. Natural materials such as wood or masonry are preferred, although vinyl or composite fencing may be used.

iii. Color. Colors must be natural, earthen tones, unless the vinyl or composite fence brand is only available in white in which case, information from the manufacturer on lack of color availability must be submitted with the application.

iv. Height. The fence shall not be more than six feet high.

v. Landscaping. Fences shall be screened by trees and shrubs located outside the fence to cover at least 50% of the fence. If existing vegetation does not provide this screening, plants shall be added outside the enclosed space. Plants shall be spaced so that in ten (10) years' time they will have matured to meet this requirement. Suitable trees and shrubs are upright evergreens and others that will provide screening year round.

PART II. Section 15.04.340.E., “Permit Processing” is repealed and recreated to read as follows:

E. Permit Processing. All permit applications under subsections (B)(4), (8), and (10) of this section shall be referred to the plan commission, which shall pass upon the purpose, appearance, materials, design, location, height, harmony with the principal structure on the subject lot and neighboring structures, and consistency with the stated legislative purpose of this section. If the plan commission approves an application, the director shall issue such a permit.

PART III. All ordinances and parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART IV. If any section or portion of this ordinance 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 portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

PART V. The provisions of this ordinance shall be in full force and effect from and after its passage and publication.

Adopted this 17th day of March 2020.
ORDINANCE #2603-20 OF THE CITY OF BROOKFIELD, WISCONSIN

Approved:

[Signature]

Mayor Steven V. Ponto

Attested:

[Signature]

City Clerk Kelly Michaels

Publication Date: March 25, 2020