

Ordinance 2019 - 23

AN ORDINANCE TO AMEND
THE CITY OF RUSHVILLE ZONING ORDINANCE,
RUSHVILLE, INDIANA

Whereas, pursuant to IC 36-4-6-2, the Common Council of the City of Rushville is the legislative body; and

Whereas, pursuant to IC 36-7-4-605 the Rushville Advisory Plan Commission (Commission) shall certify a favorable recommendation, an unfavorable recommendation, or no recommendation to the legislative body on proposed changes to the City of Rushville's Zoning Ordinance, Resolution No. 2019-01; and

Whereas, the City of Rushville's Advisory Plan Commission in accordance with IC 36-7-4-604 held a public hearing on October 16, 2019, on the proposed amendments to the City of Rushville's Zoning Ordinance, as amended.

An ordinance to amend the City of Rushville Zoning Ordinance as follows:

Amend Article I, General Provisions, Section M. Administration as follows:

1. Improvement Location Permits

An Improvement Location Permit shall be obtained prior to any construction, reconstruction, moving, enlarging, or structural alterations. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together:

- a. Construction;
- b. Enlarging;
- c. Moving;
- d. Placing/or placement;
- e. Reconstructing; or,
- f. Structurally altering any structure, placed on a ~~permanent~~ foundation (permanent or non-permanent), including signs.
- g. Making any significant alterations to features such as, but not limited to, swimming pools or ponds.
- h. Fences and retaining wall.

2. Improvement location Permit Not Required

An Improvement Location Permit is not required for the following:

- a. Routine maintenance, or repair of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
- b. Lot and yard improvements such as fences, drives, sidewalks, patios, play equipment and landscaping.

Amend Article II, Definitions, Section B. Definitions as follows:

Delete the definition of "Fence" and insert a new definition to read as follows:

Fence. A barrier or partition of wood, masonry, stone, metal or similar manufactured material or combination of materials, including entrance and exit gates, used to prevent or control entrance, confine within or straying from within, mark a boundary or act as a screen.

Add the following definitions:

Alley. A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

Fence, Barbed-Wire. One or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear, or snag persons, clothing, or animals.

Fence, Decorative. Any fence constructed of permitted materials no greater than three inches in width, with the spacing between permitted materials being no less than three inches. This term shall also include wire and chain-link fencing that do not contain privacy slats.

Fence, Privacy. Any fence constructed of board or similar material, with the spacing between those boards or pieces of material being less than three (3) inches.

Fence, Stockade: A fence constructed of vertical ~~wood~~ strips, with no intervening spaces, providing a complete visual barrier.

Hedge. A row of closely planted shrubs, bushes, or any other kind of plant used as a compact, dense, solid or unbroken visual screen of self-supporting living plants that protects, shields, separates, or demarcates an area.

Right-of-Way, Public. Property occupied or intended to be occupied by a street, trail, utility transmission line, or other public utility or facility.

Scrap Lumber. Small pieces or an extract of larger pieces of lumber, left-over oddment of wood.

Amend Article III, Zoning District Regulations; Section E. R-4 Manufactured Home Community District; 4. Development Conditions; c. Development Standards; v. Permanent Structures; by deleting the following:

- (2) A separate area, which is fenced, screened or otherwise enclosed to a height of six (6) feet, shall be provided for the storage of residents' recreational vehicles, boats, snowmobiles and other similar items. Storage of recreational vehicles, boats, snowmobiles, or similar items shall only be stored in designated storage area.

Amend Article III, Zoning District Regulations; Section K. CO, Corridor Overlay District: 6. Architectural design standards by deleting as follows:

- j. Chain-link fences and unpainted or unfinished block fences or walls are prohibited. All sides and elevations of walls, or block fences visible at ground level from the public right-of-way or an adjacent lot must be architecturally finished.

Amend Article III, Zoning District Regulations; Section K. CO, Corridor Overlay District as follows:

- 2. Applicability, b. Exception to Boundaries to read as follows:
 - i. Properties located along said roads in the Central Business Zoning District shall ONLY be included for purposes of "Section 9. Public Spaces and Community Art." The requirements of such section shall apply to properties in the Central Business District that otherwise fall within the Boundaries set forth above and shall be excluded for all other purposes.
- 13. Outdoor display(s), sale(s) and storage to read as follows:
 - b. All permitted outdoor display, sales and storage, shall be located in the rear of the structure.

Amend Article VII, Regulations Applicable to Specific Uses; Section H. Telecommunication Facilities Standards; 6. Site requirements. All telecommunications facilities shall meet the following site requirements by deleting:

- g. Fencing. A security fence measuring eight (8) feet in height shall completely surround the tower and accessory equipment building site.
 - i. An area ten (10) feet in width shall remain outside of the fence for the purpose of providing the landscape screening described in this section.
 - ii. The required security fence enclosing the facility shall be 100% opaque and of wood, brick, or stone construction. Opaque eight (8) foot tall wooden gates shall be provided to access the facility.

Amend Article IX, Landscaping and Screening Requirements, as follows:

Amend the text of B. Landscape Plan; 2. Technical standards; c. to read as follows:

2. One (1) tree per 4,000 square feet of vehicular use area (UVA) shall be provided within landscape islands or immediately adjacent to VUAs. Trees shall be generally distributed throughout the VUA and not concentrated in just a few small areas. Landscape islands shall be a minimum of 150 square feet in area and nine (9) feet in width.

Amend Section C. Fences and Walls by deleting Section C. Fences and Walls and inserting a new Section C. Fences, Hedges and Walls to read as follows:

C. Fences, Hedges and Walls

1. GENERAL

- a. Fences, hedges and walls shall be permitted in all zoning districts.
- b. Additional fencing and/or screening requirements for specific uses as outlined in this chapter.
- c. Electrical charged fences, walls, or hedges are prohibited, except as permitted for correctional institutions.
- d. All fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side that faces the interior of property where the fence is to be built.

2. MATERIALS:

- a. Fences, hedges and walls may be of one (1) or more the following materials:
 - (1) Brick
 - (2) Chain link (PVC coated or non-coated)
 - (3) Live Hedges of a non-noxious nature
 - (4) Masonry (Architectural finish)
 - (5) Ornamental wrought iron
 - (6) PVC/Vinyl/Composite (stockade, split-rail, picket, lattice)
 - (7) Stone
 - (8) Treated Wood (stockade, split-rail, picket, lattice)
- b. The following materials are specifically prohibited as fence material:
 - (1) Barbed Wire, (including concertina or razor, except correctional facilities)
 - (2) Chicken wire
 - (3) Construction fence (except during construction)
 - (4) Pallets/skids (composite/wood/PVC)
 - (5) Plastic or fiberglass sheets
 - (6) Plywood/oriented strand board (OSB)
 - (7) Scrap lumber
 - (8) Sheet metal
 - (9) Woven wire

- c. No fence or wall shall be constructed of or contain broken glass, spikes or sharp dangerous objects.

Except: Blunted decorative spikes that are a part of an ornamental wrought iron fence shall be permitted.

- d. See Appendix (A) for example of each fence material as well as type.

3. MAINTENANCE:

- a. All fences shall be maintained to the standard to which they were designed and installed.
- b. Maintenance of fences, walls or live hedges is the responsibility of the property owner or occupant.
- c. Failure to maintain fences, walls or live hedges shall constitute a violation of this ordinance.

4. LOCATION:

a. Yard - Front

- (1) Properties located at corners of intersecting streets are considered as having two (2) front yards.
- (2) No fence, wall, or hedge shall be permitted to encroach into the required visual clearance on corner lots, as outlined in Article IV, Section F.
- (3) Fences permitted in front yards shall be split rail, ornamental wrought iron, chain link, or picket fences, with forty percent (40%) open spacing, not to exceed three (3) feet in height.

(Note: Diagrams are provided for reference purposes only as examples to assist with clarity. The written text within the ordinance shall govern.)

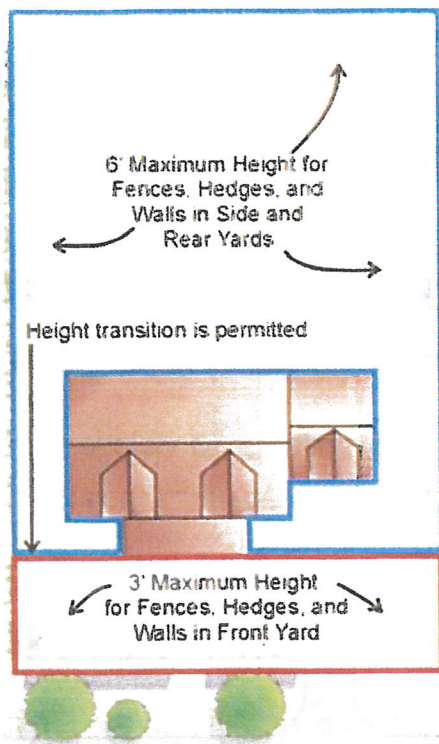


Figure 1 Front Yard Setback

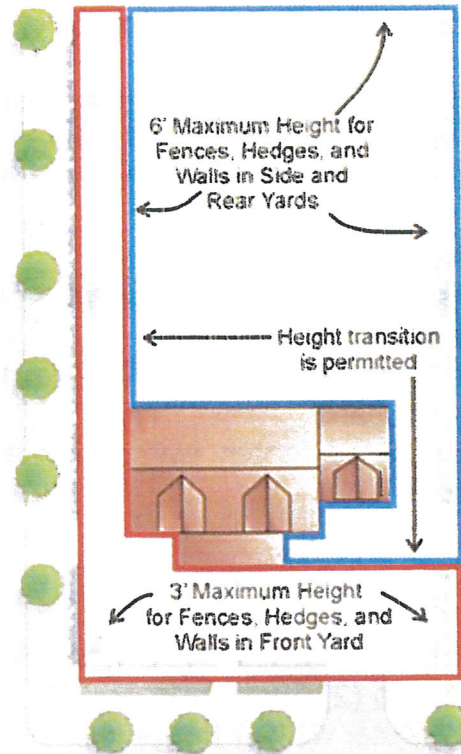


Figure 2 Front Yard Setback
(frontage on two (2) streets)

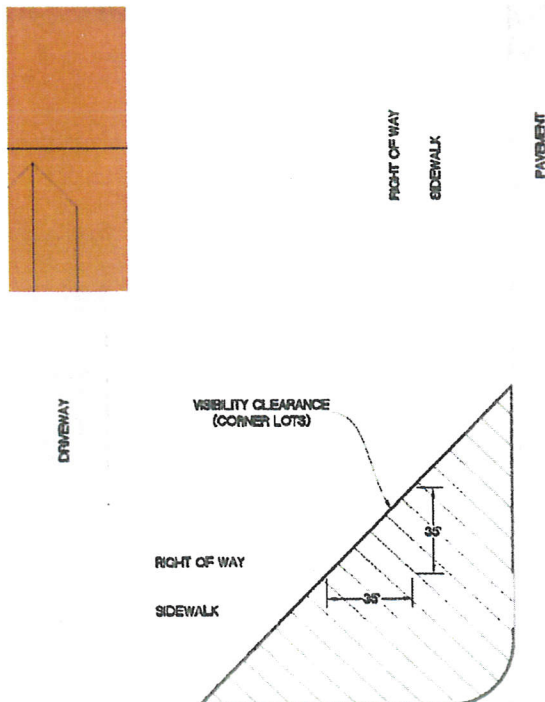


Figure 3 Visual Clearance - Corner Lots

- b. Yard - Sides and Rear
 - (1) Fences, hedges or wall may be placed on the property line if a boundary survey certified by an Indiana Registered Land Surveyor verifying location of property lines is submitted to the Planning and Zoning Department for the issuance of the Improvement Location Permit.
 - (2) When there is no boundary survey certified by an Indiana Registered Land Surveyor, said fence, hedge or wall shall be a minimum of two (2) feet from the property line.
- 5. RIGHT-OF-WAY, PUBLIC.
 - a. No fence, hedge or wall shall be constructed in or allowed to encroach upon any public right-of-way.
 - b. Fences, hedges, or walls shall be a minimum of five (5) feet from any public right-of-way.
- 6. EASEMENT:
 - a. No fence, hedge or wall shall cross a public or private easement without the written permission of the easement holder.
 - b. No fence, hedge or wall shall be located within a utility or drainage easement.
- 7. MEASURING:
 - a. Fences, hedges, and walls shall be measured vertically from the surrounding grade, including the base of any berms, to the top of the fence.
 - b. Fence post or column may extend six (6) inches above the top of the fence.
 - c. Fences on Retaining Walls.
 - (1) Combination of retaining walls and fences shall be permitted.
 - (2) The retaining wall portion may be erected vertically to the higher level of finished grade.
 - (3) The fence atop a retaining wall shall be of materials identified in this ordinance and to a height of six (6) feet.
 - (4) Measurement of the fence shall be taken vertically from the top of the retaining wall to the top of the fence.
- 8. REQUIREMENTS SPECIFIC TO ZONING DISTRICTS AND SPECIFIC USES
 - a. R-4 - Manufactured Home Community District
 - (1) Storage of residents' boats, recreational vehicles (RV), snowmobiles, travel trailers, trailers, shall only be stored in designated storage areas that are separated by fences, screens or otherwise enclosed to a height of six (6) feet.
 - b. CO. Corridor Overlay District:
 - (1) Chain-link fence, unpainted or unfinished masonry walls are prohibited. Masonry walls visible from the public right-of-way or adjacent lots shall be architecturally finished.

- (2) Outdoor display, sales and storage shall be screened on all sides by an architecturally finished masonry wall, opaque fence, or opaque landscaping not less than four (4) feet in height.
- c. Government, public utilities or essential service buildings:
 - (1) May be secured with fences, walls, or hedges at side and rear property line to a minimum height of eight (8) feet and maximum height of ten (10) feet.
Exception: Correctional Facilities
- d. Manufacturing facilities storage area:
 - (1) Manufacturing facilities on-site storage of production materials, waste containers shall be effectively screened on all sides by an opaque fence, wall or hedge to a minimum height of eight (8) feet and maximum height of ten (10) feet.
 - (2) All access points shall be gated and closed at all times when not in use.
 - i. Gates shall be opaque and be a minimum height of six (6) feet.
 - ii. Gate material shall match the style of the fence, wall or hedge.
- e. Outdoor storage, display and/or sales areas:
 - (1) For all zoned districts, except as further specified in this section, all outdoor storage, display, sales areas shall be effectively screened on three (3) sides by an opaque fence, wall or hedge to a minimum height of eight (8) feet and maximum height of ten (10) feet.
- f. PUD. Planned Unit Development
 - (1) Fences, hedges or walls not permitted herein but established in conjunction with a planned unit development (PUD) plan may be authorized as part of that planned unit development (PUD) plan.
- g. Telecommunications Facility Sites:
 - (1) Telecommunication facilities shall be provided with security fencing as follows:
 - i. Completely surround the tower and equipment buildings;
 - ii. Opaque of wood, brick, masonry, or stone.
 - iii. Minimum height of eight (8) feet and a maximum height of ten (10) feet.
 - iv. Access gate of permitted materials a minimum height of eight (8) feet.
- h. Junk Yards, Vehicle Salvage/Repair, Vehicle Impoundment Yards, Scrap or Recycling facilities:
 - (1) Junk yards, vehicle salvage yards, vehicle repair, vehicle impoundment yard, scrap or recycling facilities shall be screened by an opaque fence, wall, or hedge to a minimum height of eight (8) feet and a maximum height of fifteen (15) feet in height.

- (2) Fences, walls or hedges shall be setback fifteen (15) feet or more from property lines.
- (3) All access points shall be gated and closed at all times when not in use.
- (4) Gates shall be opaque and be a minimum height of six (6) feet.
- (5) Gate material shall match the style of the fence, wall or hedge.

APPENDIX A

Images and diagrams are provided for reference purposes only as examples to assist with clarity. The written text within the ordinance shall govern.

Section 2 a - Example of permitted materials:



Figure 1 Brick



Figure 2 Chain Link (PVC coated or non-coated)



Figure 3 Live Hedge (non-noxious nature)



Figure 3a Live Hedge (non-noxious nature)



Figure 4 Masonry (Architectural Finish)

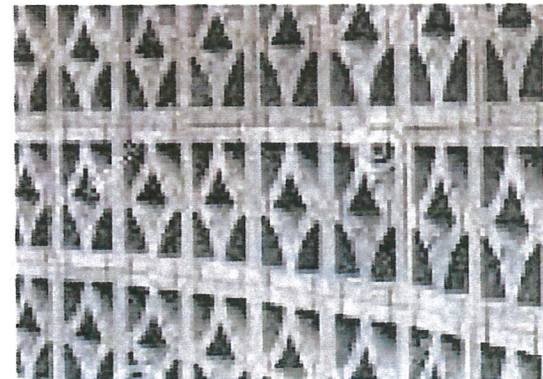


Figure 5 Masonry (Decorative)

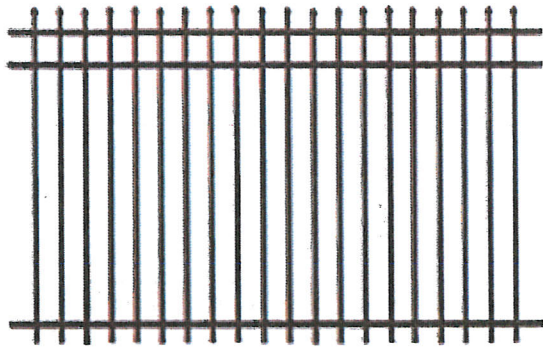


Figure 6 Ornamental Wrought Iron

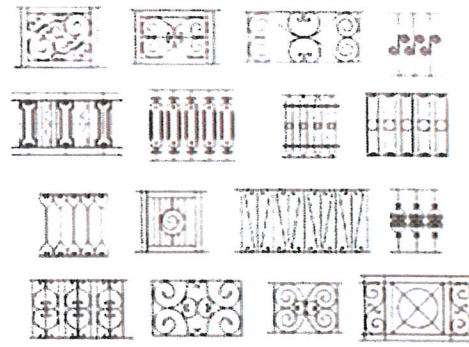


Figure 6a Variations Ornamental Wrought Iron



Figure 7 Stone

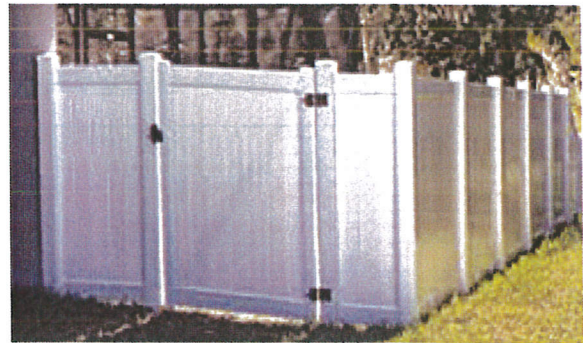


Figure 8 PVC/Vinyl

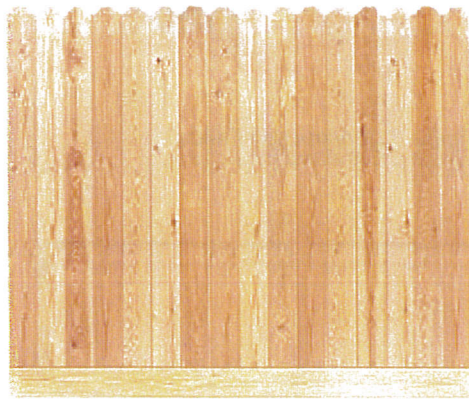


Figure 9 Treated Wood (stockade)

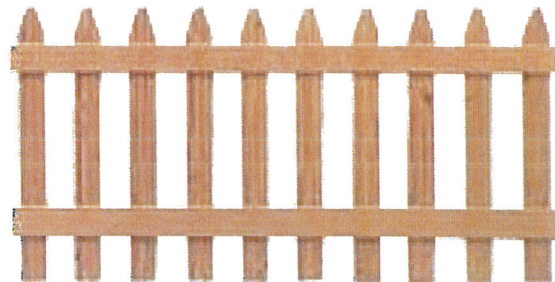


Figure 9a Treated Wood (picket)

Section 2 b - Example of Prohibited Materials

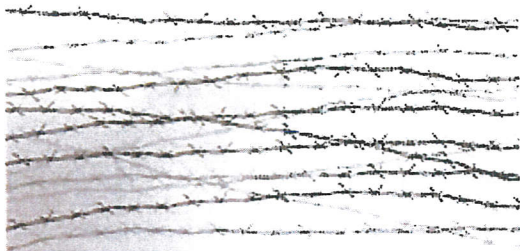


Figure 1 Barbed Wire



Figure 1a Concertina or Razor Wire

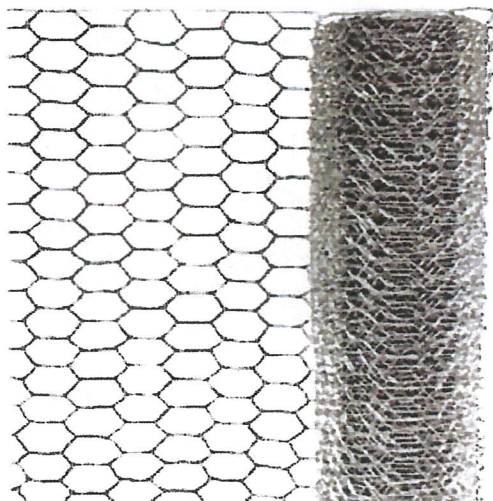


Figure 2 Chicken Wire

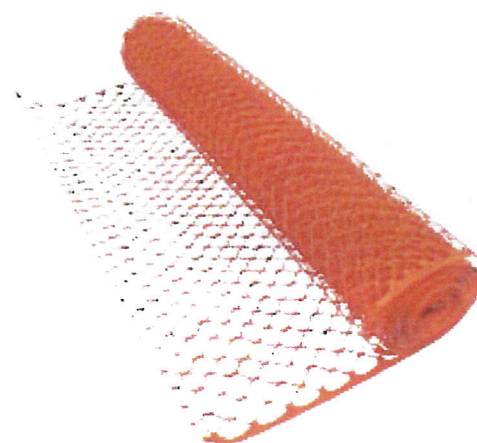


Figure 3 Construction Fence

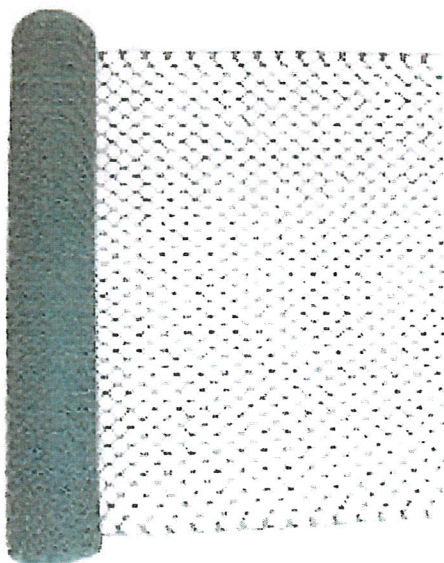


Figure 3a Construction Fence

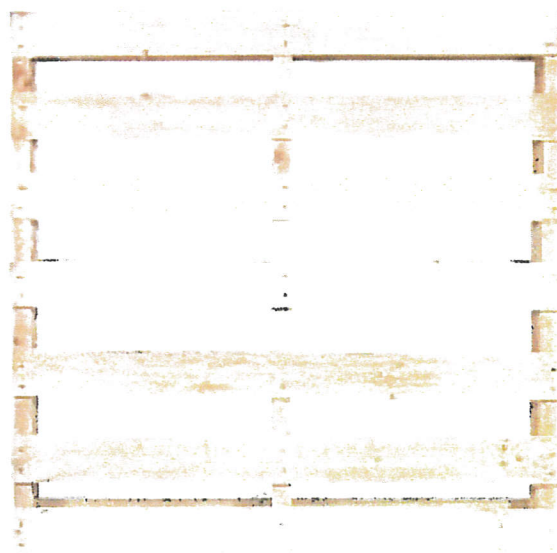


Figure 4 Pallet/Skid

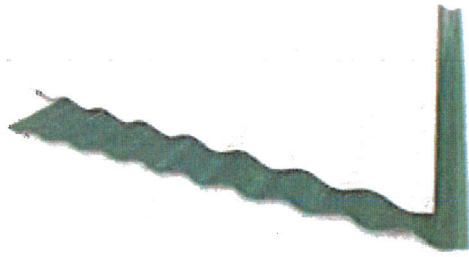


Figure 5 Fiberglass Sheet Panel

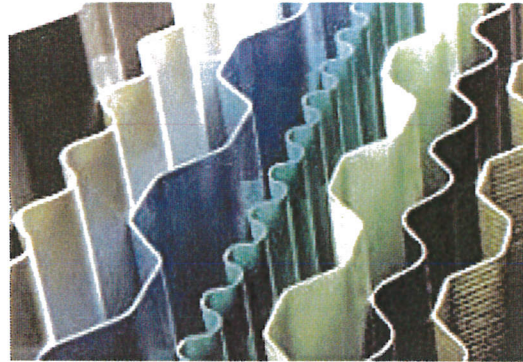


Figure 5a Fiberglass Sheet Panels



Figure 6 Plywood



Figure 6a Oriented Strand Board (OSB)



Figure 7 Scrap Lumber



Figure 8 Sheet Metal

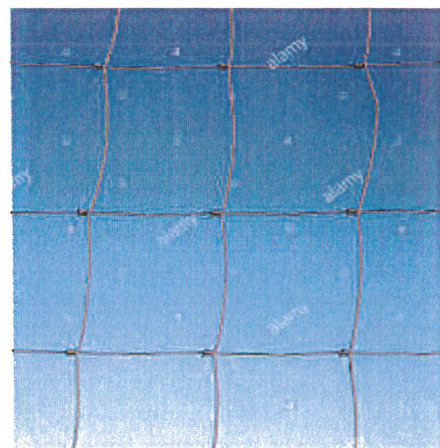


Figure 9 Woven Wire

Example of various "types" of fencing:



Figure 4 Decorative (wood)

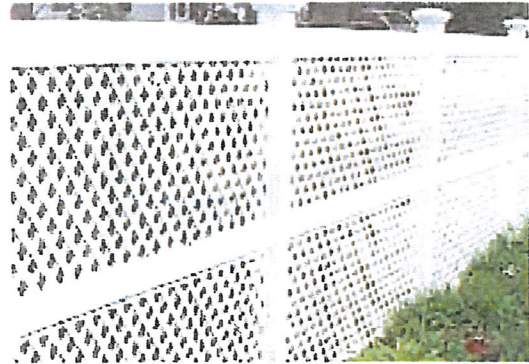


Figure 5 Decorative (PVC/Vinyl)



Figure 6 Decorative (metal insert)

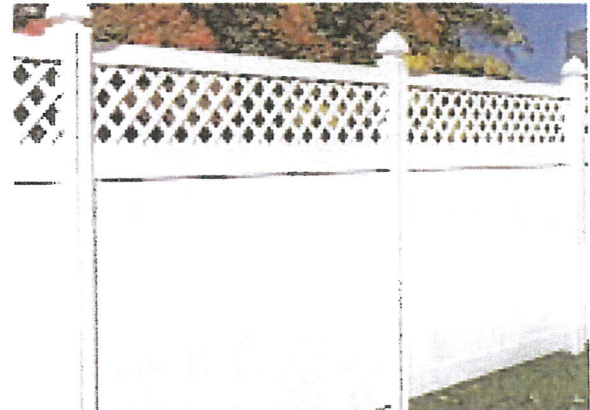


Figure 7 Decorative or Privacy (PVC/Vinyl)

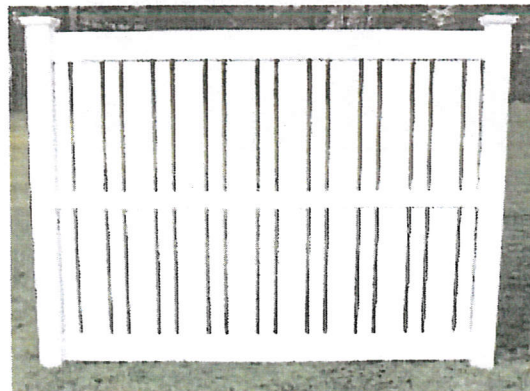


Figure 8 Decorative or Privacy (PVC/Vinyl)



Figure 9 Decorative or Privacy (Treated Wood)

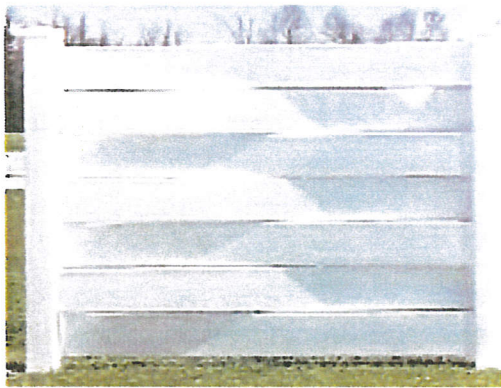


Figure 10 Decorative or Privacy (PVC/Vinyl)



Figure 11 Picket Fence (Treated Wood)

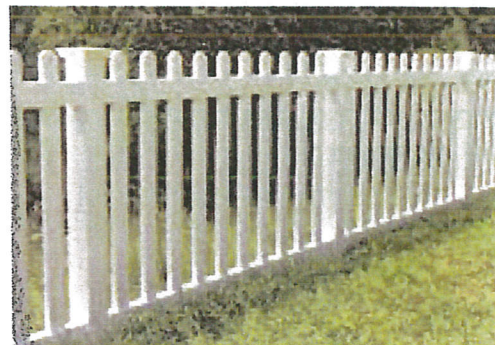


Figure 12 Picket Fence (PVC/Vinyl)

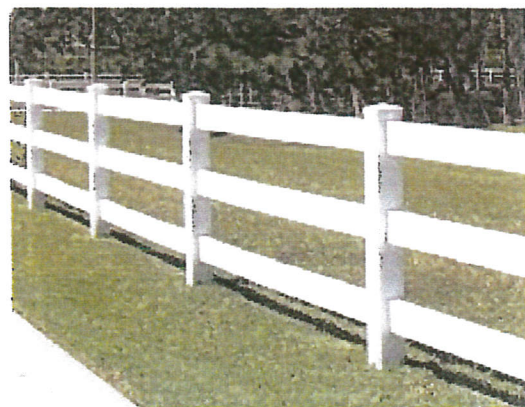


Figure 13 Split Rail (PVC/Vinyl)

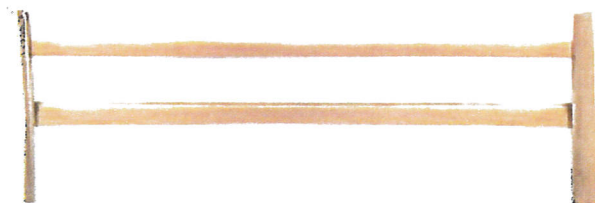


Figure 14 Split Rail (Treated wood)

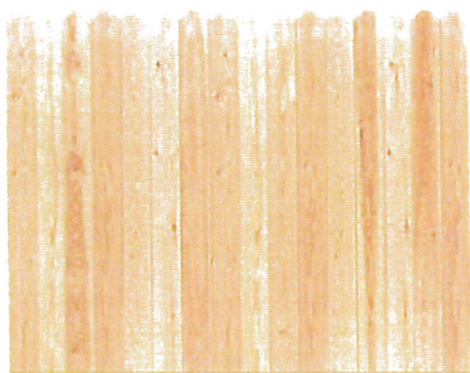


Figure 15 Stockade (Treated Wood)



Figure 16 Stockade (PVC/Vinyl)

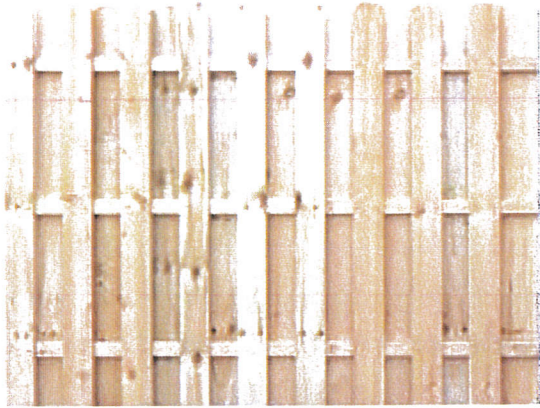


Figure 17 Stockade (Treated Wood)

WHEREAS, this matter is now before the Rushville City Council at its regular and properly noticed meeting after certification of the proposed zoning ordinance amendment;

DULY ORDERED BY THE CITY COUNCIL OF THE CITY OF RUSHVILLE INDIANA this 19 day of November 2019.

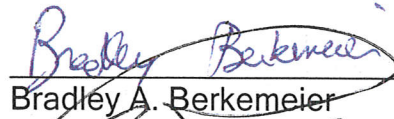
CITY OF RUSHVILLE COUNCIL:



Craig Smith, President



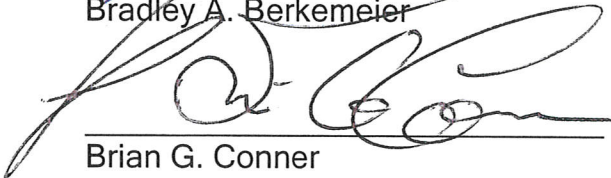
Robert M Bridges



Bradley A. Berkemeier



Gary Cameron



Brian G. Conner

PRESENTED TO ME FOR APPROVAL AND APPROVED THIS 19 DAY OF November, 2019 AT 6:00 O'CLOCK P.M.



Michael P. Pavey, Mayor
City of Rushville, Indiana

ATTEST:



Ann L. Copley, Clerk Treasurer
City of Rushville, Indiana