



CITY OF SHELBYVILLE, INDIANA | PLANNING AND BUILDING DEPARTMENT
MAYOR THOMAS DEBAUN | DIRECTOR ADAM RUDE

FROM THE DESK OF ADAM RUDE | DIRECTOR | ARUDE@CITYOFSHELBYVILLE.IN.COM

Date: October 23rd, 2020
To: Shelbyville Plan Commission Members
RE: Response to comments about the Fence Standards

This memo is in response to comments brought up about the current Fence, Hedge and Wall Standards (UDO 5.17 FW-01 and 5.18 FW-02, see attached)

The concerns raised were:

1. Location: residents are asked to build 3 feet from the property line, but are not required to do so, they can actually build a fence on the property line which can cause trespassing issues due to maintaining the fence, disputes over property lines, and issues with matching current property owners' lawn.

The ordinance states in Section 5.17 FW-01 (A) 2. Setbacks: All fences, hedges, and walls may be permitted **up to any property line as long as the property owner is able to maintain both sides of the fence**. No fence, hedge, or wall may be placed in any right-of-way or required sight visibility triangle that is more than two feet six inches (2'6") tall.

Staff recommends no change to these standards for a number of reasons: (1) Requiring a setback for fence locations would prohibit neighbors from jointly installing a fence. This is a very common practice due to the fact that both neighbors then have use of their entire back yard while also being able to split the cost of the fence between both neighbors. (2) A setback for fences would decrease usable space in someone's backyard, and in certain neighborhoods, downtown for instance, the backyards are not very large to begin with. (3) Along the same lines, a fence setback could create a "dead space" between properties where neither neighbor could use this space. This could also increase the likelihood that this space between fences is maintained less and becomes a nuisance.

2. Material: if an HOA does not regulate material then there are no standards for the type of material to be used.

The ordinance states in Section 5.18 FW-02 (B) 1. **Permitted Materials**: Wood, composite wood, stone, masonry, wrought iron, decorative metal, PVC, vinyl, zinc or powder coated chain link, and galvanized chain link shall be permitted materials for fences and walls. Fences may incorporate chicken wire or mesh wire only if the wire is within wooden framed panels. Other similar materials may be used as determined

comparable by the Zoning Administrator. In no instance shall this be interpreted as prohibiting the use of invisible fences, and;

(B) 2. **Prohibited Materials:** Fences and walls shall not incorporate chicken wire or mesh that is not within wooden framed panels, mesh wire, agricultural wire, metal or plastic slats within chain links, standing-seam metal panels, barbed wire, above grade electrified wires, razor wire, glass, sharpened top spikes, or similar hazardous materials.

Staff recommends that this section only be amended if the Plan Commission feels that the list of permitted and prohibited materials is not sufficient and needs revisited. This section was amended in 2018 when this list of permitted and prohibited materials was added.

3. Height: if an HOA does not regulate height then there are no standards for height listed.

The ordinance states in Section 5.18 FW-02 (A) 1. **Height:** Fences, hedges, and walls shall not exceed eight (8) feet in height in any side or rear yard or three (3) feet in height in any front yard. For the purposes of this requirement, the front yard shall be defined as all areas located between any adjacent streets and the walls of the primary structure that face them.

Staff recommends that this section only be amended if the Plan Commission feels that the heights listed are not appropriate for the community. These current height standards are fairly common among other communities and the staff has not noticed this being an issue in the past.

4. Permits: permits are not required.

The ordinance states in Section 5.17 FW-01 (A) General Requirements: Fences, hedges, and walls **shall be permitted in all zoning districts without a permit** subject to conformance with the following requirements:

Staff recommends that this section not be amended. There is no set of national or model building code requirements for fence construction. As with most building and permitting rules, fence restrictions are enforced at the local (city, municipality, county, state, etc.) level and can vary from one area to the next. The City of Shelbyville Planning and Building Department sees/hears two (2) major complaints; 1) from the City perspective homeowners build a fence with the non-structural side facing inward and 2) neighbor complaints about the location of fences. The first issue is usually resolved when staff contacts the homeowner informing them of the requirement. The second issue is a civil matter. Staff always encourages homeowners to know where their property lines are or get a survey before installing a fence or any accessory structure. The addition of permitting and inspecting responsibilities would place an unnecessary burden and

additional administrative costs which the Planning and Building Department does not have the resources for.

The City currently provides educational material, both hard copies and online resources to assist homeowners with building a fence in accordance with the Unified Development Ordinance and avoiding any issues. Homeowners that do not inquire about the fence standards are also unlikely to obtain permits to build a fence. Adding a permit would only increase the cost of building a fence for homeowners.

The vast majority of fences are constructed without any issues or problems. Staff recommends that the current standards regulating fences not be changed, unless the Plan Commission would like to address issues concerning height or materials.

Please feel free to contact our office with any questions or concerns prior to the meeting.

Respectfully,

A handwritten signature in black ink, appearing to read 'Adam M. Rude', consisting of three distinct, stylized parts.

Adam M. Rude

Director, Planning and Building Department
City of Shelbyville, Indiana

Fence, Hedge, and Wall Standards (FW)

5.17 FW-01: General Fence, Hedge, and Wall Standards

These Fence, Hedge, and Wall Standards (FW) apply to the following districts:



- A. **General Requirements:** Fences, hedges, and walls shall be permitted in all zoning districts without a permit subject to conformance with the following requirements:
 1. *Structural Face:* All fences and walls shall present the non-structural face outward.
 2. *Setbacks:* All fences, hedges, and walls may be permitted up to any property line as long as the property owner is able to maintain both sides of the fence. No fence, hedge, or wall may be placed in any right-of-way or required sight visibility triangle that is more than two feet six inches (2'6") tall.
 3. *Buffer Yards:* No fence or wall may be placed in any required buffer yard that does not specifically provide for the inclusion of fences.
 4. *Maintenance:* All fences, hedges, and walls shall generally be kept in good repair.
 5. *Gates:* All gates located within three (3) feet of a sidewalk or driveway shall only swing inward. At no time can any gate that opens outward encumber a sidewalk or other public way.
- B. **Height Exceptions:** Fences specifically required by this Ordinance for screening, enclosing swimming pools, or other purposes may exceed the maximum heights established by this Article in a manner consistent with the specific alternate requirements of this Ordinance.
- C. **Height Measurement:** The height of a fence shall be determined by measuring from grade level to the highest point of the fence, including any posts or finials.

5.18 FW-02: Residential Fence, Hedge, and Wall Standards

These Fence, Hedge, and Wall Standards (FW) apply to the following districts:



- A. **Height Requirements:**
 1. *Height:* Fences, hedges, and walls shall not exceed eight (8) feet in height in any side or rear yard or three (3) feet in height in any front yard. For the purposes of this requirement, the front yard shall be defined as all areas located between any adjacent streets and the walls of the primary structure that face them.
 2. *Corner Lots:* On corner lots, fences, hedges, and walls may be placed in rear yards and areas designated as front yards located along the side of the primary structure (i.e. the home) as long as it is outside the sight visibility triangle; and shall not exceed eight (8) feet in height.
- B. **Material Requirements:**
 1. **Permitted Materials:** Wood, composite wood, stone, masonry, wrought iron, decorative metal, PVC, vinyl, zinc or power coated chain link, and galvanized chain link shall be permitted materials for fences and walls. Fences may incorporate chicken wire or mesh wire only if the wire is within wooden framed panels. Other similar materials may be used as determined comparable by the Zoning Administrator. In no instance shall this be interpreted as prohibiting the use of invisible fences.
 2. **Prohibited Materials:** Fences and walls shall not incorporate chicken wire or mesh that is not within wooden framed panels, mesh wire, agricultural wire, metal or plastic slats within chain links, standing-seam metal panels, barbed wire, above grade electrified wires, razor wire, glass, sharpened top spikes, or similar hazardous materials.

5.19 FW-03: Parks and Recreation and Business Fence, Hedge, and Wall Standards

These Fence, Hedge, and Wall Standards (FW) apply to the following districts:



- A. **Height Requirements:** Fences, hedges, and walls shall not exceed eight (8) feet in height in any side or rear yard and shall not extend past the front facade of the primary structure.
- B. **Prohibited Fences:** All electrified, razor wire, and stockade fences are prohibited on all lots not used for agricultural purposes.