

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: Safe Fencing Regulations Resolution No. 20211104-039

Description:

Initiated code amendments to address dangerous fence design, including spiked elements that protrude above the top horizontal bar of a fence. Resolution found that City Code currently allows some spiked fence styles that can pose significant risk to humans and animals.

Directed the City Manager to evaluate:

- Requiring flat top styles on new fences of all lengths.
- Applying flat top fence requirements to all new fences of six feet tall or lower.
- Applying flat top fence requirements to substantial fence repairs or remodeling of 50% or more of an existing fence.

Proposed Language: Consider modifications to fence regulations and relocate the ordinance from 25-12 to 25-2-899, with some changes to ensure safer fences.

Summary of Proposed Code Amendment:

See attached draft ordinance.

Staff Recommendation:

Staff recommends approval of this amendment.

Board and Commission Actions

January 25, 2023- Building and Fire Board of Appeals- Board Member Brasfield requested to make a motion to table the topic and create a work group, Board member Schumann second the motion. Motion passed 7-0. The conclusion of the work group was to enhance the safe fence requirements.

After additional discussion by Executive staff and Legal, it was determined that the proposed changes should be in City Code Section 25-2-899 (Fences as Accessory Use) with the purpose of combining all LDC fence requirements.

April 19, 2023- Codes and Ordinances Joint Committee- Chair Hempel move to approve the ordinance with the following amendments:

- (1) Include language that applies the requirements of this subsection to any substantial fence repairs or remodeling of 50% or more of an existing fence.
- (2) Amend subsection (H)(2) to the following language: "Except when the fence is used as a swimming pool barrier, an exemption can be requested from this subsection when applied to a fence that is placed on a property that [is described in (3) below].
- (3) Following subsection (H)(2)(d) include the additional subsection: "A request from the exemption can be made to the historic landmark commission and this decision can be appealed to the Planning Commission or the Zoning and Platting Commission. The exemption is only allowable for a fence fronting a street or pedestrian access."
- (4) Per request by Commissioner Greenberg, include the subsection: "Exemptions do not apply to residential properties to include multifamily residences or mixed-use."

(5) Per request of Commissioner Thompson, amend the ordinance to include language amending the height for fences that would allow spikes, razor wire or barbed wire be increased to 8 feet and above.

Chair Hempel included a request to involve City Legal to identify the implications of the ordinance amendment on HOAs. Chair Hempel had additional requests that the amendment should go into effect six months or less after council approves and an educational campaign by staff should be created to educate the Austin community about why the city is requiring safer fences through the ordinance amendments. Commissioner Greenberg seconded the motion, and the ordinance was approved with all of the above amendments, on a unanimous vote (6-0)

May 23, 2023- To be reviewed by the Planning Commission.

City Council Action

May 4, 2023, Council Approved on Consent to set a public hearing for Thursday, June 8, 2023

Ordinance Number: NA

City Staff: Tony Hernandez (Subject Matter Expert)/Lisa Martinez (Case Manager)

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PROPOSED LANGUAGE FOR CHANGES TO FENCE CONSTRUCTION
VERSION THREE
DRAFT SUBJECT TO ADDITIONAL CHANGES

~~§ 9-4-41 RESTRICTION ON USE OF BARBED WIRE FENCES.~~

~~(A) Except as provided in Subsections (B) and (C), a person commits an offense if the person constructs or repairs, or causes to be constructed or repaired, a barbed wire fence.~~

~~(B) A person may use barbed wire at the top of or above a fence that is at least six feet high.~~

~~(C) This section does not apply to a fence enclosing a airport or other landing area for aircraft, if the use of barbed wire is required by Federal Aviation Administration regulation.~~

§ 25-2-899 FENCES AS ACCESSORY USES.

(A) Except as otherwise provided in this chapter, a fence:

- (1) is permitted as an accessory use in any zoning district; and
- (2) must comply with the requirements of this section.

(B) In this section:

- (1) an ornamental fence is a fence with an open design that has a ratio of solid material to open space of not more than one to four; and
- (2) a solid fence is a fence other than an ornamental fence.

(C) The height restrictions of this section do not apply to an ornamental fence.

(D) Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed ~~[an average height of six feet or a maximum]~~ a height of seven feet measured from a natural grade up.

(E) A solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files a written consent to the construction of the fence with the building official, and:

- (1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or

-
- (2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.
- (F) A solid fence may be constructed to a maximum of eight feet in height if the fence is located on or within the building setback lines.
- (G) A[a] solid fence may be constructed to a height of eight feet if the fence is located between a residential use and:
- (1) property zoned as a commercial or industrial base district;
 - (2) property used for a commercial or industrial use; or
 - (3) an alley that separates a residential use and:
 - (a) property zoned as a commercial or industrial base district; or
 - (b) property used for a commercial or industrial use.
- (H) Except as otherwise provided in this subsection, a fence shall be constructed in accordance with this subsection.

(1) This subsection does not apply to a fence:

- (a) that was constructed before [insert effective date of this ordinance];
- (b) that follows historic design standards; or
- (c) that is at least six feet and located on a property that has a non-residential use.

(2) When more than 50 percent of an existing fence is replaced, the entire fence must comply with this subsection. The percentage is determined using the total linear distance of the existing fence.

(3) A fence may not include:

- (a) spiked pickets, spiked bars, or other spiked decorative elements above the top horizontal backer rail;
- (b) vertical pickets above the top horizontal backer rail if the vertical pickets are separated by more than two inches and less than nine inches;
- (c) razor like wire; or

(d) barbed wire unless the fence is enclosing an airport or other landing area for aircraft and the use of barbed wire is required by Federal Aviation Administration regulation.

(4) A fence that creates a substantial risk of entrapment or impalement is prohibited.

(5) A solid chain link fence shall use knuckle selvage.

(l) A fence used as a swimming pool barrier shall comply with Chapter 25-12, Article 14 (*Swimming Pool and Spa Code*).

2023 Safe Fencing Regulations

Engagement Summary (English)

Type of Engagement	Date of Engagement	Number of People Registered	Number of Unique Visitors/Participants	Number of Questions/Comments Received
PublicInput	04-Jan-2023 to 20-Jan-2023	N/A	331	9
Zoom Webinar	18-Jan-23	15	11	31
In-Person Engagement	19-Jan-23	0	0	0
DSD Communications Email	04-Jan-2023 to 20-Jan-2023	N/A	1	1
Total	04-Jan-2023 to 20-Jan-2023	15	343	41

2023 Safe Fencing Regulations

Engagement Summary (Spanish)

Type of Engagement	Date of Engagement	Number of People Registered	Number of Unique Visitors/Participants	Number of Questions/Comments Received
PublicInput	04-Jan-2023 to 20-Jan-2023	N/A	110	0
Zoom Webinar	18-Jan-23	0	0	0
In-Person Engagement	19-Jan-23	0	0	0
DSD Communications Email	04-Jan-2023 to 20-Jan-2023	N/A	0	0
Total	04-Jan-2023 to 20-Jan-2023	0	110	0

2023 Safe Fencing Regulations

Outreach Summary (English)

Type of Outreach	Date of Outreach	Number of People Reached	Number of Messages Opened/Clicked
Targeted Email	5-Jan-23	2,900	1,511
Social Media (Twitter)	6-Jan-23	585	1
Social Media (Facebook)	6-Jan-23	28	2
Targeted Email (Reminder)	13-Jan-23	2,890	1,559
Social Media (Facebook)	16-Jan-23	63	3
Social Media (Twitter)	16-Jan-23	626	7
Community Impact	05-Jan-23 to 19-Jan-23	37,583	28
Total	25-Apr-2022 to 05-Jun-2022	44,675	3,111

2023 Safe Fencing Regulations

Outreach Summary (Spanish)

Type of Outreach	Date of Outreach	Number of People Reached	Number of Unique Visitors/Participants
Targeted Email	5-Jan-23	2,900	1,511
Social Media (Facebook)	6-Jan-23	26	0
Social Media (Twitter)	6-Jan-23	590	3
Targeted Email (Reminder)	13-Jan-23	2,890	1,559
Social Media (Facebook)	16-Jan-23	46	0
Social Media (Twitter)	16-Jan-23	434	3
Spanish Radio Advertisements	09-Jan-23 to 19-Jan-23	74,092	0
Total	25-Apr-2022 to 05-Jun-2022	80,978	3,076

Attendee Report: Safe Fencing Virtual Engagement (Zoom)

Date: 01/18/23

Time: 10:00 AM

Actual Start Time	Actual Duration (minutes)	# Registered	# Cancelled	Unique Viewers	Total Users
January 18, 2023 9:47 AM	72	50	0	27	37

Panelist Details			Attendee Details		
Attended	User Name (Original Name)	Time in Session (minutes)	Attended	Name	Time in Session (minutes)
Yes	Todd Czaplicki	72	Yes	Lisa Martinez	36
Yes	Chris Sapuppo	68	Yes	David King	35
Yes	Tony Hernandez	72	Yes	Adam Barbe	5
Yes	Robbie Searcy	55	Yes	Andrea Gonzales	7
			Yes	Nicole Santos	35
			Yes	Hillary Bates	33
			Yes	Thomas Yantis	35
			Yes	Joseph Reynolds	35
			Yes	blake shaw	33
			Yes	Jennifer Smith	29
			Yes	Dianne Hill	34
			Yes	Anna Pittala	7
			Yes	jerry johnson	25
			Yes	Chris Sandoval	23
			Yes	David Shrum	35
			Yes	Robert Higgs	15
			Yes	Catherine Craig	18
			Yes	Jennifer Santiago	8
			Yes	Patricia King	35
			Yes	Renee Godinez	34
			Yes	Joe.Krippelz	22
			Yes	Michael Dunn	8
			Yes	Johnson Pools	35
			Yes	Lauren Summers	35
			Yes	Danielle Davidson	36

Yes	Alina Carnahan	31
No	Eric Rauser	--
No	Amanda Brigance	--
No	William Jones	--
No	Jon Fichter	--
No	Donna Crites	--
No	Matt Norton	--
No	Rodrigo Cantu	--
No	Emily Ankney	--
No	Kyle McFadden	--
No	Kelly Arnold	--
No	Christopher Clifton	--
No	Caleb Wood	--
No	Amber Campbell	--
No	Cesar Santos	--
No	Brian Lucke	--
No	David Lockett	--
No	Mike Owens	--
No	Rusd Donaldson	--
No	Rina Caravantes	--
No	Wes Cranmer	--
No	Stan Potter	--
No	Joel Hefner	--
No	Marc Molak	--
No	bob rafferty	--
Total Attended		26

Attendee Report: Safe Fencing In-Person Engagement

Date: 01/19/23

Time: 06:00 PM

Actual Start Time	Actual Duration (minutes)	# Registered	# Cancelled	Unique Viewers	Total Users
January 19, 2023 06:00 PM	20	6	0	0	0

Panelist Details			Attendee Details		
Attended	User Name (Original Name)	Time in Session (minutes)	Attended	Name	Time in Session (minutes)
Yes	Todd Czaplicki	20	No	Cater Joseph	--
Yes	Chris Sapuppo	20	No	Chase Wright	--
Yes	Tony Hernandez	20	No	Greg Santiago	--
Yes	Lisa Martinez	20	No	Chris Sandoval	--
			No	Joey Gallahan	--
			No	Michael Owens	--
				Total Attended	0

**Safe Fencing Regulations Engagement
PublicInput Project Page Engagement
Question/ Comment Summary
January 2023**



Question/ Comment:

I am fully in favor of changing fence regulations to make them safer for small children and wildlife. I assume there are economic ramifications to any regulatory change, but any cost is far outweighed by the benefit to our young children and their safety. People may assert that a tragic accident on an exposed fence is a freak accident, but too many of these accidents have occurred. The fix is relatively simple in order for no family to go through the horrors that an exposed fence poses.

Response:

Thank you for your input.

Question/ Comment:

I support safe fencing regulations in order to protect children and wildlife.

Response:

Thank you for your input.

Question/ Comment:

There is a reason for wrought iron fences with spiked tops, it's to keep out intruders and protect the home occupants. Or don't you people give a damn about that? Mind your own business and stop harassing property owners.

Response:

Thank you for your input.

Question/ Comment:

The purpose of a fence is to prevent access to property. Spiked tops, concertina wire, barbed wire held at an angle from the vertical, and other means of deterring entry should be allowed on fences of 6' or higher.

Response:

Thank you for your input.

Question/ Comment:

The ordinance should create a compounding financial penalty for fences that have been constructed within the pedestrian right of way and obstruct safe pedestrian movement and/or the construction of new sidewalks. This would be aligned with the goals of Vision Zero and recent transit and mobility bonds.

Response:

Thank you for your input.

Question/ Comment:

This is asinine. you people have way bigger problems to deal with the spikey fences.

Response:

Thank you for your input.

Question/ Comment:

Spiked and open picket metal fences are dangerous for wildlife, pets and people.

With spikes, the danger is obvious. This happens frequently with deer; if just a leg is caught, the deer may be able to get free and recover, but most of the time the injury is to the abdomen and results in an agonizing death. Also, a person climbing a spiked fence can be caught on the spikes (a neck injury can be quickly fatal), and anyone falling onto a spiked fence will be impaled.

With open pickets, people and animals can be impaled, just like with spikes. But, children can also get their necks caught in the top openings between pickets; this can cause unconsciousness and death.

For these reasons, only flat-topped fencing is safe.

In fall of 2018, Citizen Advocates for Animals (CAFA), campaigned to have the City of Lakeway, TX, ban new metal fences with spikes or open pickets. We were originally concerned about the many deer impaled on these dangerous fences. It is tragic for the animals, as well as gruesome for residents; it also takes up the time and effort of our police officers, who are called by distraught homeowners. Other communities require flat-topped fencing, whether due to safety concerns or because it is considered the most sleek and modern style. Happily, it also tends to be less expensive.

While we were working on our request, a local news station had coverage of a Georgetown toddler who died in spring of 2018, when his neck was caught in a neighbor's open picket fence. That was when we realized this wasn't just an animal issue--it was a safety issue for people as well. Also, a construction worker in San Antonio was severely injured when he slipped off a roof and was impaled on the homeowner's open picket fence. So, in 2018, we had 2 tragedies nearby, with dangerous fences and people.

CAFA renewed its efforts. The Wildlife Advisory Committee agreed unanimously to recommend to Council that these dangerous fences be banned in Lakeway going forward. In February of 2019, City Council unanimously passed that ordinance, and all new fencing in Lakeway must have a continuous flat top.

I hope Austin takes similar action to protect people and animals.

Response:

Thank you for your input.

Question/ Comment:

I hope these changes to the rules will be made. Since I've become aware of the dangers of metal fences with pointed, exposed pickets, I see them everywhere and it scares me. I don't want any more children to die or be hurt.

Response:

Thank you for your input.

Question/ Comment:

I am against this resolution. What is the definition of flat top? I don't think we should be forcing landscapers and architects to use a horizontal bar at top of fences in Austin that has a tremendous amount of topography and vertical bars are the only way to maintain COA fencing height regulations. We typically like to use steel tubes with welded 'flat' cap spaced 4" on center for pool barriers that really need to blend in with the planted native landscape. Perhaps if it's written to eliminate a clearly defined spiked top (perhaps by defining any stick that tapers or shape has a perimeter that is less than say 1.5" and actually looks like a spear) similar to the outlawing of barbed wire fencing. I do not want to lose the ability to use vertical fencing when that is an essential method for us to deal with steep topography and have a fence top that follows grade without adding a horizontal stepping top or angled top.

Response:

Thank you for your input.

Safe Fencing Regulations Engagement
Emails
Question/ Comment Summary
January 2023



Question/ Comment:

To whom it may concern.

Last year I came across a deer that tried to jump an iron fence and it got stuck on the spikes and it died upside down because the spikes caught it in the lower abdomen. This was at a city of Austin animal preserve near Zilker Park on the west side of mopac on Rollingwood drive.

I know of a person who lives up the hill from there off of Austin Blvd who has an iron fence of the same design and she has had deer impaled in her yard several times because the deer have a path that they follow from the front to the back of her yard. She is unsympathetic because the deer eat her plants and does nothing to correct the problem.

I see dead deer on fences all the time on the internet as well and know of people as well who have died from it and think this is unnecessary. The city of Austin needs to write legislation that will help prevent these senseless tragedies. The negative attitude of how we treat the animals we are blessed to share Austin with needs to change. I am this voice today and ask for you sympathy to write into law ways to prevent this.

The way these deer are dying is worse than how bull fighting is done. As brutal as bull fighting is, at least the bulls die standing up and not choking upside down. As the deer hang there they try to shake loose and the spears just dig in deeper into non vital organs so it's a long painful death. It sucks and makes me sad. Please do something to prevent this with the position you hold in the city of Austin.

I have attached some pictures for your review from the Rollingwood drive experience. Please look at them and try to imagine how helpless that deer was as it hung there for the last hour of its life.



Response:

Thank you for your input.

Safe Fencing Regulations Virtual Engagement
Question/ Comment Summary
January 18, 2023



Question/ Comment:
Can the presentation be emailed to us?
Response:
Thank you for your question. Please visit https://publicinput.com/safefencing for the presentation along with all information related to the engagement. We will continue to update the page throughout the life of the engagement.
Question/ Comment:
Please confirm "dog eared" style wood fences are approved.
Response:
A dog eared style of fence would be approved provided the gap between the pickets did not exceed 2".
Question/ Comment:
Since fences under 6' don't require a permit (unless in flood zone) will the city start requiring permits for fences?
Will the city be conducting active enforcement on non-compliant fencing?
Response:
Development Services Department does not expect to require a permit beyond the current expectations. Currently, a permit is required for any fence taller than 8' for a residential fence and 7' for a commercial fence. Austin Code Department will be the department expected to enforce this ordinance.
Question/ Comment:
Additionally, will barbwire on top of chain link be approved for security in businesses & commercial instances?
Response:
A separate existing section in code makes the use of barbed wire fence illegal.
Question/ Comment:
Will the enforcement be complaint-based or active?
Response:
The decision how to enforce the ordinance would be made by Austin Code. Development Services Department believes it would be complaint-based, but that has not been determined at this time.

Question/ Comment:

The examples in the presentation seem to be residential. What about commercial setting? Fences have for thousands of years kept valuable or dangerous things contained, can't get in or out. There are many car repair and parts yards that have concertina wire to prohibit damage or theft. Why would the classic purpose of fencing be prohibited?

Response:

The proposed ordinance would only apply to fences 6' in length or smaller. If a security fence were taller than 6' in height it would not apply to the proposed ordinance.

Question/ Comment:

When will this go into effect?

Response:

That decision will be completely determined by Austin City Council. The ordinance must go before Council before such a date can be determined.

Question/ Comment:

For fences between 6' to 8' in height, what are the regulations

Response:

Current language in the Land Development Code allows for ornamental fence 1:4 ratio can be over 6' in height. A solid fence must be less than 6' in height.

Question/ Comment:

While I agree fences purely ornamental in nature can be changed, I have concerns about fences required for safety and security. Residential areas have dangerous and destructive animals that need to be constrained. Allendale has had issues with coyotes eating pets, deer eating crops, and wild hogs causing destruction. One time a coyote appeared around a yard where a baby had been several minutes prior. In cases such as these fences are required for security. Large animals such as bobcats have little issue scaling a fence measuring 8' in height. How will this ordinance consider such issues? These are simply issues my neighbors mention, and I hope the city will consider them.

Response:

Thank you for your input. Fences measuring more than 6' in height will still be allowed with the proposed ordinance language. There is no 100% secure way to construct a fence to keep everything out of an area.

Question/ Comment:

Deed restrictions may limit the type of fence allowed in a neighborhood. I hope the proposed ordinance will take this into consideration. Even if the City of Austin does not enforce these deed restrictions people living in certain areas may be constrained by them.

Response:

Development Services Department will have to investigate this further. There are many deed restrictions the City of Austin does not enforce.

Question/ Comment:

Will these regulations extend to the ETJ areas?

Response:

No, these regulations will not apply to the Extra Territorial Jurisdiction areas surrounding the City of Austin. These regulations will only apply to the City of Austin city limits.

Question/ Comment:

It seems these regulations are impacting fences under 6' in height. As you previously mentioned a permit is not required for fences measuring less than 8' in height. So, someone could have a spiked fence measuring 7' in height. Is this correct?

Response:

That is correct.

Question/ Comment:

For those concerned about animals or safety they could still build a fence that measures 7' or 8' in height and include spikes for security. Is this correct?

Response:

That is correct.

Question/ Comment:

If a fence measures 6' or less in height and has spikes it would be considered non-compliant with the proposed ordinance. Would people with such a fence be required to replace their fence or would the ordinance only apply when building a new fence?

Response:

100% of the former fence would have to be replaced when constructing a new fence before this ordinance would come into effect. The proposed ordinance would not retroactively impact existing fences.

Question/ Comment:

Although there is no date when this ordinance is expected to be approved, how much time will vendors be provided to use their existing inventory of fencing that does not comply with the ordinance? Ideally, a period of 9 months to 1 year would be best to allow for appropriate reductions in noncompliant inventory. There is no means to determine how much demand a contractor can expect in the City of Austin, so some contractors have a significant amount of inventory that may not comply with the proposed ordinance.

Response:

The proposal would allow for six months for contractors to use their inventory that does not comply with the ordinance. The City will investigate if more time is appropriate. Existing inventory could also be used on taller, compliant fences or outside of the city limits.

Question/ Comment:

Thank you for facilitating this process along with the public engagement. I really appreciate the City of Austin reaching out, informing neighborhoods, and providing them time to understand this proposal. I know you have already completed some community engagement in the past on this topic earlier last year. Looking at the proposal it appears to be a reasonable balance for protection of people, pets, and property without infringing too much on a person/business ability to protect their property. I think this will save lives, as I know people who have lost their children due to impalement or being caught on their own fence in their yard. There is a good reason for the new proposed approach to fence safety while striking a balance with other perspectives and concerns.

Response:

Thank you for your input.

Question/ Comment:

The email safefencing@publicinput.com does not work.

Response:

We apologize for this inconvenience. We will investigate why this is occurring. Please email DSDCommunications@austintexas.gov with any questions or comments you may have. You may also input comments on our [project page](#).

Question/ Comment:

Will this meeting be recorded to view? What options are available for those who were unable to attend this meeting?

Response:

While this specific meeting will not be posted online we do intend to post a video of the presentation on our [project page](#) along with other relevant material to this engagement.



2022 Safe Fencing Regulations

Engagement Summary (English)

Type of Engagement	Date of Engagement	Number of People Registered	Number of Unique Visitors/Participants	Number of Questions/Comments Received
SpeakUp Austin	25-Apr-2022 to 05-Jun-2022	N/A	601	31
Microsoft Teams Meeting-DSD Divisions	26-Apr-22	N/A	7	7
Microsoft Teams Meeting-Partner Departments	27-Apr-22	N/A	6	12
In-Person Engagement	7-May-22	0	0	0
Zoom Webinar	10-May-22	15	11	31
Zoom Webinar	16-Apr-22	13	9	23
In-Person Engagement	26-May-22	1	1	14
DSD Communications Email	25-Apr-2022 to 05-Jun-2022	N/A	3	3
Total	25-Apr-2022 to 05-Jun-2022	29	638	121



2022 Safe Fencing Regulations

Engagement Summary (Spanish)

Type of Engagement	Date of Engagement	Number of People Registered	Number of Unique Visitors/Participants	Number of Questions/Comments Received
SpeakUp Austin	25-Apr-2022 to 05-Jun-2022	N/A	65	0
Microsoft Teams Meeting-DSD Divisions	26-Apr-22	N/A	N/A	N/A
Microsoft Teams Meeting-Partner Departments	27-Apr-22	N/A	N/A	N/A
In-Person Engagement	7-May-22	0	0	0
Zoom Webinar	10-May-22	0	0	0
Zoom Webinar	16-May-22	0	0	0
In-Person Engagement	26-May-22	0	0	0
DSD Communications Email	25-Apr-2022 to 05-Jun-2022	0	0	0
Total	25-Apr-2022 to 05-Jun-2022	0	65	0



2022 Safe Fencing Regulations

Outreach Summary (English)

Type of Outreach	Date of Outreach	Number of People Reached	Number of Messages Opened/Clicked
Email (Building Connections)	25-Apr-22	7,624	2,982
Targeted Email	26-Apr-22	2,105	1,058
Social Media (Facebook) (Boost from 26 April to 19 May)	26-April-2022 to 05-Jun-2022	8,036	127
Social Media (Instagram)	26-April-2022 to 05-Jun-2022	28	2
Social Media (Twitter)	26-April-2022 to 05-Jun-2022	898	6
Social Media (Twitter)	09-May-2022 to 05-Jun-2022	221	6
Social Media (NextDoor)	04-May-2022 to 05-Jun-2022	4,648	1
Austin American Statesman	09-May-2022 to 23-May-2022	32,318	
Social Media (Facebook)	09-May-2022 to 05-Jun-2022	0	0
Social Media (Instagram)	09-May-2022 to 05-Jun-2022	32	2
Email (Reminder)	12-May-22	1,503	885
Social Media (Instagram)	22-May-2022 to 05-Jun-2022	31	3
Social Media (Twitter)	22-May-2022 to 05-Jun-2022	80	0
Social Media (NextDoor)	23-May-2022 to 05-Jun-2022	5,763	0
Austin Chronicle	01-May-2022 to 31-May-2022	40,005	20
Total	25-Apr-2022 to 05-Jun-2022	103,292	5,092



2022 Safe Fencing Regulations

Outreach Summary (Spanish)

Type of Outreach	Date of Outreach	Number of People Reached	Number of Unique Visitors/Participants
Targeted Email	26-Apr-22	2,105	1,058
Social Media (Facebook) (Boost from 26 April to 19 May)	26-April-2022 to 05-Jun-2022	6,020	78
Social Media (Instagram)	26-April-2022 to 05-Jun-2022	24	3
Newspaper (El Mundo)	04-May-2022 to 31-May-2022	7,566	23
Email (Reminder)	12-May-22	1,503	885
Social Media (Twitter)	26-April-2022 to 05-Jun-2022	682	5
Social Media (Twitter)	22-May-2022 to 05-Jun-2022	66	0
Social Media (Instagram)	22-May-2022 to 05-Jun-2022	28	2
Total	25-Apr-2022 to 05-Jun-2022	17,900	2,052

Summary Report

25 April 2022 - 05 June 2022

SpeakUp Austin!

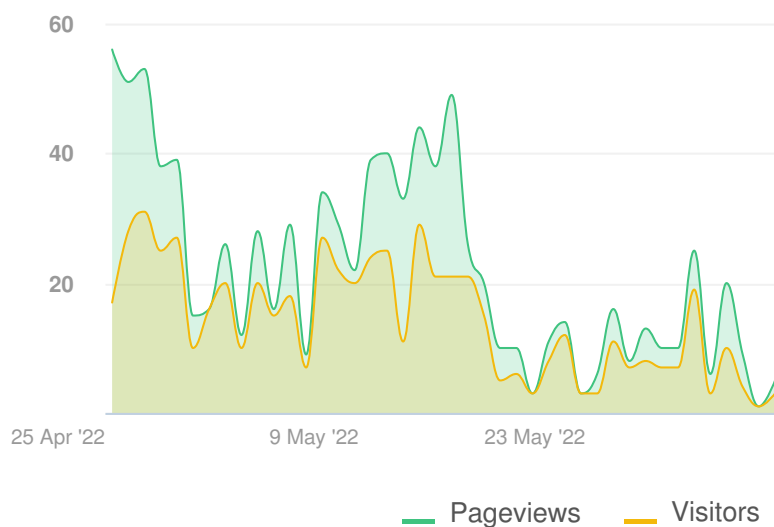
PROJECTS SELECTED: 2

Safe Fencing Regulations Engagement | Reunión pública sobre las Regulaciones de Cercas Seguras

FULL LIST AT THE END OF THE REPORT



Visitors Summary



Highlights

TOTAL VISITS	MAX VISITORS PER DAY	
656	31	
NEW REGISTRATIONS		
4		
ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
30	83	535

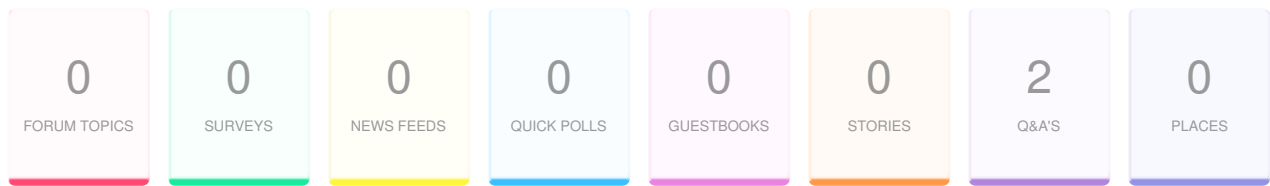
PARTICIPANT SUMMARY

ENGAGED	30 ENGAGED PARTICIPANTS					
INFORMED		Registered	Unverified	Anonymous		
	Contributed on Forums	0	0	0		
	Participated in Surveys	0	0	0		
	Contributed to Newsfeeds	0	0	0		
AWARE	Participated in Quick Polls	0	0	0		
	Posted on Guestbooks	0	0	0		
	Contributed to Stories	0	0	0		
	Asked Questions	13	17	0		
	Placed Pins on Places	0	0	0		
	Contributed to Ideas	0	0	0		
				* A single engaged participant can perform multiple actions		
				* Calculated as a percentage of total visits to the Project		

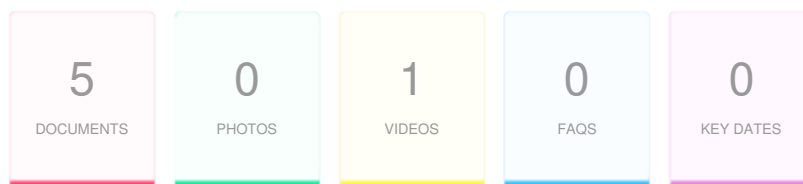
ENGAGED	83 INFORMED PARTICIPANTS					
INFORMED		Participants				
	Viewed a video	16				
	Viewed a photo	0				
	Downloaded a document	41				
AWARE	Visited the Key Dates page	0				
	Visited an FAQ list Page	0				
	Visited Instagram Page	0				
	Visited Multiple Project Pages	49				
	Contributed to a tool (engaged)	30				
				* A single informed participant can perform multiple actions		
				* Calculated as a percentage of total visits to the Project		

ENGAGED	535 AWARE PARTICIPANTS					
INFORMED		Participants				
	Visited at least one Page	535				
AWARE						
				* Aware user could have also performed an Informed or Engaged Action		
				* Total list of unique visitors to the project		

ENGAGEMENT TOOLS SUMMARY



INFORMATION WIDGET SUMMARY



DOCUMENTS	
5	Documents
41	Visitors
60	Downloads

TOP 3 DOCUMENTS BASED ON DOWNLOADS		
30 Downloads	17 Downloads	10 Downloads
Resolution No 2021110-039 (Safe Fencing Regulations)	Examples of Safe and Dangerous Fence Designs	2022 Safe Fencing Question Comment Response Summary (Virtual-May 10, 2022)

VIDEOS	
1	Videos
16	Visitors
20	Views

TOP 3 VIDEOS BASED ON VIEWS	
20 Views	
Safe Fencing Regulations Presentation Recording	

TRAFFIC SOURCES OVERVIEW

REFERRER URL	Visits
m.facebook.com	114
www.google.com	34
partner.googleadservices.com	34
lm.facebook.com	32
l.facebook.com	28
www.austinchronicle.com	13
www.austintexas.gov	12
bcnaforum.groups.io	10
statics.teams.cdn.office.net	5
www.bing.com	3
www.austinchronicleclassifieds.com	2
admanager.google.com	2
elmondnewspaper.com	2
linkin.bio	2
statesman-tx.newsmemory.com	1

SELECTED PROJECTS - FULL LIST

PROJECT TITLE	AWARE	INFORMED	ENGAGED
Safe Fencing Regulations Engagement	482	81	30
Reunión pública sobre las Regulaciones de Cercas Seguras	60	2	0

Attendee Report: Safe Fencing Virtual Engagement (Zoom)

Date: 05/10/22

Time: 10:00 AM



Actual Start Time	Actual Duration (minutes)	# Registered	# Cancelled	Unique Viewers	Total Users
May 10, 2022 9:47 AM	72	15	0	11	18

Panelist Details			Attendee Details		
Attended	User Name (Original Name)	Time in Session (minutes)	Attended	Name	Time in Session (minutes)
Yes	Todd Czaplicki	72	Yes	David Lockett	55
Yes	Marie Sandoval	72	Yes	Robin Matthews	42
Yes	Tony Hernandez	71	Yes	Harshal Patel	27
Yes	Kalissa Tozzi	60	Yes	Malorie Scaramozi	6
Yes	David King	60	Yes	Alina Carnahan	55
Yes	Julie Damian	59	Yes	Anna Pittala	55
			Yes	Lauren Summers	55
			Yes	Joey Gallahan	14
			Yes	Joyce Basciano	55
			Yes	Renee Godinez	47
			Yes	Robbie Searcy	54
			No	Omar Gutierrez-Flores	--
			No	Randy Gandara	--
			No	Marissa McKinney	--
			No	Crystal Lemus	--
			Total Attended		11

Attendee Report: Safe Fencing Virtual Engagement (Zoom)

Date: 05/16/22

Time: 10:00 AM

Actual Start Time	Actual Duration (minutes)	# Registered	# Cancelled	Unique Viewers	Total Users
May 16, 2022 9:39 AM	106	13	0	9	16

Panelist Details			Attendee Details		
Attended	User Name (Original Name)	Time in Session (minutes)	Attended	Name	Time in Session (minutes)
Yes	Todd Czaplicki	106	Yes	Shaney Clemmons	79
Yes	Tony Hernandez	100	Yes	James Teasdale	79
Yes	Marie Sandoval	99	Yes	Michael Conner	79
Yes	David King	89	Yes	Jane H Rivera	75
Yes	Julie Damian	86	Yes	Carlos Garcia	23
Yes	Mayra Rivera	94	Yes	Jeffery Bowen	76
			Yes	Frank Fuentes	79
			Yes	Salvador Chavarria	79
			Yes	Kelly Shannon	81
			No	Vicki De Weese	--
			No	Megan Meisenbach	--
			No	Stuart Carr	--
			No	Andres Partida	--
			Total Attended		9

Attendee Report: Safe Fencing In-Person Engagement

Date: 05/26/22

Time: 6:00 PM



Actual Start Time	Actual Duration (minutes)	# Registered	# Cancelled	Unique Viewers	Total Users
5/26/2022 6:00 PM	120	1	0	1	1

Panelist Details			Attendee Details		
Attended	User Name (Original Name)	Time in Session (minutes)	Attended	Name	Time in Session (minutes)
Yes	Tony Hernandez	120	Yes	Jeffery Bowen	120
Yes	Marie Sandoval	120	Total Attended		1
Yes	Todd Czaplicki	120			
Yes	Chris Sapuppo	120			
Yes	Julie Damian	90			

2022 Safe Fencing Regulations
SpeakUp Austin
Question/ Comment Summary
April/May 2022



Question/ Comment:

What is the reason for this new regulation? Are there statistics on the dangers of fences with spikes? How many people in Austin have been injured on a fence of this type? What height was the fence where the injury occurred?

Response:

In November 2021, the Austin City Council approved [Resolution No. 20211104-039](#) initiating amendments to City Code Chapter 25-12 (Technical Codes) related to spiked fencing. The resolution identifies the potential for entrapment and impalement as the primary concern. The analysis of this code amendment is in an exploratory phase and at this point, is focused on developing options for improving the safety of fencing. The conversation started with the death of a toddler in a neighboring community when his neck became stuck between open pickets on a 4-to-5-foot fence. While we have been unable to find statistics that exist in a single location that detail the danger posed by spiked fences, many news articles exist indicating this is a substantial issue. The municipalities of Rollingwood, Sun City, and Lakeway have adopted protections similar to the one currently under consideration. Also, many homeowners associations and communities have banned similar fencing styles due to the danger they pose.

Question/ Comment:

What does this mean? Does this apply to wood dog ear fencing? Is this just a haircut? The resolution is very vague. Only applicable to metal fencing?

Response:

The goal of this engagement is to gather stakeholder input on how the regulations should be structured and what should be covered. The regulations ultimately proposed could apply to both metal and wood fences, although a dogeared fence with a gap less than a couple of inches would not be affected. Eliminating the gap that could create entrapment is the key.

Question/ Comment:

This seems to be a costly effort to solve a problem that is not really even defined here. There are numerous other safety issues around pedestrians that are more risky than impalement on a picket fence, such as lack of sidewalks, broken sidewalks, lack of crosswalks or bike lanes, etc. What is the exact safety issue and context, esp given this is a requirement for private property? Is the issue primarily related to low metal fencing? What other cities regulate spiked fences? What are their policies? Differences in materials and configuration addressed? 6' Cedar picket "privacy fences" should not be included at all, as they are neither spiked nor low enough to fall on. Millions of children growing up in Texas have climbed 6' cedar fences in backyards for decades without the need for flat tops, which would definitely add cost. Seems like wood fences in general should be excluded, low or high, as wooden picket fences aren't exactly sharp. Is there any data on wooden vs metal impalement injuries? All picket fences in historic areas would be illegal under something like this? Picket fences have been ubiquitous across the US for a hundred years or more without needing regulation. Few picket fence products available at Home Depot come with flat tops, so you'd be talking about something custom made to

comply in general, which would be more expensive. Does this only apply to a perimeter or boundary fence at the property line, where the public could encounter it? What about security fencing around private residences, intended to keep people (or animals) out? As in barbed wire is ok but not a picket fence across the front lawn? Seems like fence height would matter a lot, but hard to support something that would burden the homeowner with compliance costs without some supporting data about the risks involved and the problem it's trying to solve.

Response:

The goal of this engagement is to evaluate solutions that address the top of a fence where impalement or entrapment could occur. Impalement could occur from somebody conducting simple house maintenance such as cleaning gutters and windows from a ladder. Children, wildlife, and adults have been injured on fences ranging in all heights and materials. Wooden picket fences would be included if the spacing at the top of the fence is wide enough to create a trap between pickets. A dog-eared wooden fence with spacing only wide enough to allow for expansion would be considered adequately safe.

Staff will not recommend retroactive requirements on any existing fences, including historical fences, although repairs could require compliance. While the scope of future regulations is to be determined, regulations could apply to all fences on a property.

Barbed wire has been restricted in the city since 1992. Lakeway ordinance 2019-02-19-04 states: "All fences, including wood, wrought iron and ornamental fencing, shall be continuous flat-topped without spikes or sharp points." Rollingwood and Sun City now have similar requirements to improve the safety of fences.

There is no data available to make the comparison between wood and metal fence impalements.

Question/ Comment:

This is absolutely ridiculous and a shining example of government overreach on property owner rights. Picket fences and other ornamental fences are an asset to neighborhoods and communities. (Looks at cities like New Orleans where homes with metal peaked fences are coveted design features.). Peaked fences are also more secure in preventing climbers and preventing crime. (Look at the White House fence.) Consider other ways to reduce the risk posed by dangerous/malicious designs without stepping on every homeowners personal design aesthetics and safety concerns.) One or two bad actors should not have this type of impact on every home owner. We don't need a city wide home owners association, mandating bland design aesthetics.

Response:

Thank you for your feedback.

Question/ Comment:

Fences with spiked pickets are dangerous to children and wildlife. My city of Lakeway has a restriction on new fences that prohibits spikes. Old fences are grandfathered in but many people have removed the spikes after the death of a young child and many deer. The child lost his footing with his head wedged between the spikes and deer often got a leg or foot caught between the spikes when attempting to jump the fences. Spikes can be removed easily if already in place by homeowners. Thank you, Doris Davis Lakeway

Response:

Thank you for your feedback.

Question/ Comment:

I would like to add my voice as an advocate for safe fencing. Kade Damian is my grandson, and I hope that an ordinance making safe fencing mandatory saves any other parent or grandparent the pain of loss we have felt.

Response:

Thank you for your feedback.

Question/ Comment:

I see this as costly and burdensome for property owners with a questionable overall safety improvement. I am opposed. I prefer that the City spend efforts enforcing other measures in place that will result in increased safety to a greater number of residents, such as enforcing distracted driving laws.

Response:

Thank you for your feedback.

Question/ Comment:

This is the dumbest ordinance I have yet to see come out of this city clowncil. Many fences have beautiful decorative features using iron and thoughtful design. Please reconsider your bureaucratic over-reach into the individuality of citizen's choices in their fence design for private property.

Response:

Thank you for your feedback.

Question/ Comment:

I suppose there are a million stories in the big city. But it seems fences are, in part, a security barrier designed to be dangerous. Can I still use razor wire? What prompted such a change, were innocent people hurt while recreationally climbing fences or did they impale themselves while defenestrating? Is it Nanny Austin or a problem of which I am ill informed?

Response:

Barbed wire was restricted in 1992 in the City of Austin. This discussion was prompted after a toddler died when his neck got stuck between pickets. It's a national problem impacting both people and wildlife.

Question/ Comment:

This has to be the most absurd waste of time for the city when there are so many more important pressing issues that ARE NOT being addressed. So for the record, I DO NOT support this initiative. Spiked fences are both decorative and a crime prevention feature. My condo backs up to Meadowbrook apartment, the largest city owned low income housing complex. It is not as crime riddled as it was when I moved in 20 years ago, but do I sleep better knowing that there is a fence with spikes on top of it to keep people out, yes, I do. This proposal looks like someone desperate to claim they found a solution to a problem, however, the problem doesn't exist. Please stop wasting our tax dollars on this and go solve real problems.

Response:

Thank you for your feedback.

Question/ Comment:

As a citizen of Lakeway, TX, I would like to address the need for Austin to develop a safe fencing ordinance! There are many spiked fences throughout Lakeway! After the tragic loss of Kade Damian in Georgetown a few years ago, I was compelled to avoid such a tragedy in Lakeway. All new wood and metal fencing must be flat-topped! I sincerely urge you to strongly consider a safe fencing ordinance for the City of Austin! With my sincere gratitude! Rita Cross

Response:

Thank you for your feedback.

Question/ Comment:

In regard to the consideration of safe fencing without spikes, wood or metal in the City of Austin. As a Lakeway, TX citizen, I encourage you to seriously consider a safe fence ordinance! Lakeway has added an ordinance that disallows all new fencing with spikes! I so appreciate your serious consideration of this request for safe fencing in Austin!

Response:

Thank you for your feedback.

Question/ Comment:

Fences are meant to protect--not maim and kill. I was part of an animal advocacy group in Lakeway, Texas, that in 2018 started working to get our city to ban dangerous fencing with spiked tops or open pickets. We saw the horrific results when deer and other wildlife creatures were impaled on these fences. It is extremely traumatic for homeowners when an animal is impaled on top of a fence or caught between pickets. Finally, it takes up police time and effort as most people call them for help. Then, we saw the local news coverage about little Kade Damian's death on an open picket fence in Georgetown. Researching, we found that another child recently died on a metal fence in Dallas. A roof worker was critically injured when he fell onto a spiked fence in San Antonio in 2018. Many adults and children are killed or seriously injured this way nationally. So, we initially thought this was a wildlife issue, but we learned it is much more. The fact is that spiked and open picket fences are dangerous to people as well as wildlife. This creates a liability issue for homeowners and businesses. In early 2019, the city of Lakeway passed an ordinance requiring all new fencing to have continuous tops, making them safe for animals and people. I hope Austin will do the same. Fences are supposed to protect—not maim and kill.

Response:

Thank you for your feedback.

Question/ Comment:

I do not favor making it safer to climb a fence. i assume requiring a horizontal top piece is intended for that. I oppose solid cast iron tall fences as they radiate heat into neighbors yards, killing plants, and even into their houses. I further oppose changing soil levels from one yard to the next without engineering study regarding drainage over a wide area. I also oppose

Response:

Thank you for your feedback.

Question/ Comment:

I support the proposed code recommendations of 1) Requiring flat-top styles on new fences of all lengths 2) Applying flat top fence requirements to all new fences of six feet tall or lower, and 3) Applying flat top fence requirements to substantial fence repairs or remodeling of 50% or more of an existing fence. Continuing to allow spiked fencing is a vanity position that poses horrible physical and deadly consequences for children and animals.

Response:

Thank you for your feedback.

Question/ Comment:

First, I realize that the impetus for this measure started with a devastating loss of life and my statements below are not meant to minimize that. However, I do not believe that an extremely rare, but tragic, event like this should dictate fence design for all of greater Austin, including the fences of private citizens. I would be amenable to support measures for civic use spaces such as schools & playgrounds to require a flat top fence design, but I am 100% opposed to requiring all fences, whether public or private, follow these standards. The beauty of life is how fleeting and fragile it can be. We live in a world with many obstacles that could cause serious bodily harm or loss of life and yet we continue to allow ourselves to interact with the structures we build / or drive / or create that have proved to be a greater danger to ourselves than non-flat top fences. Please don't let this one tragic, but incredibly incredibly rare event dictate our freedom for individual expression

Response:

Thank you for your feedback.

Question/ Comment:

Beautiful fences that have white pickets and ornamental black ironwork should not be outlawed. If the fences are short, deer can easily clear them. Fences like these can be appealing in front yards where families are trying to keep kids safe from nearby traffic. I don't want our city to have houses that all look the same... and that seems to be what we would be creating with these rules limiting more creative fencing. Variety makes our neighborhoods interesting.

Response:

Thank you for your feedback.

Question/ Comment:

The primary functional use of a fence is as a physical barrier to keep unwanted guests out of private property. This action by the council explicitly undermines this functionality by making all fencing designs easier and safer to cross. Cited dangers are marginal and orders of magnitude less common than simple trespass. How does the council address this viewpoint?

Response:

Council [Resolution No. 20211104-039](#) outlines the Austin City Council's findings in support of this proposed code amendment.

Question/ Comment:

I oppose this ordinance. With property crime rampant in our city, homeowners should have all available options to create layers of defense around their properties.

Response:

Thank you for your feedback.

Question/ Comment:

No facts or analysis of impact of proposal. Arguments in resolution are opinion based not fact based. Who are you making the fence safer for - the resident or the intruder?

Response:

Thank you for your feedback.

Question/ Comment:

There is no reason for these fences to be allowable. If they are low, they are a DANGER to children and yet there is NO increase in safety to have exposed vertical spikes. Low fences need to be safe fences. I am in Maryland. In a local town center we had a fence surrounding a fire place with exposed spikes. I made the property manager aware and within a month he removed the spikes. He is a responsible manager who recognized this safety hazard. Unfortunately, not everyone is as responsible as he was. That is why there needs to be regulations before another toddler gets hurt or killed.

Response:

Thank you for your feedback.

Question/ Comment:

I strongly support amending the city code to address dangerous fencing. These spiked bars and pickets on short fences have been clearly shown to be dangerous and sometimes deadly to wildlife and children. There would be no excuse for allowing another "rare" fence tragedy to occur when it is so clearly preventable.

Response:

Thank you for your feedback.

Question/ Comment:

If I saw equal measures/resolutions to stop/fight crime in Austin I would support this. But living in an area where people often jump my fence (they are 6ft and flat topped btw) as they run from the cops and swat I don't see what this really addresses. I oppose this resolution.

Response:

Thank you for your feedback.

Question/ Comment:

I strongly support adopting the Safe Fencing Regulation. Picket fences are a design choice that can be fatal for humans and animals. It's an easy fix going forward, ensuring that living beings can't become entrapped, gored or strangled. I know someone whose young child slipped out of their view for moments and wound up strangled on a metal picket fence. I mourn that sweet child every time I see a picket fence. It's a design aesthetic that is fatally flawed, and updating code to reflect our new understanding is an obvious decision. Please update fencing regulations to be safer for children and wildlife.

Response:

Thank you for your feedback.

Question/ Comment:

Please support the safe fencing regulation! This should be a no-brainer; safety should always trump aesthetics. This is not just about one child who died, but about all the many children who won't have to. Please ban unsafe fencing!

Response:

Thank you for your feedback.

Question/ Comment:

I would like to support the fencing code changes. There is clear evidence that low picket fences are a danger to wildlife and humans. There are alternatives that provide safe fencing. Communities in our area have recognized the need, as have communities across the country and internationally, and have enacted laws to address the problem. Austin should do the same.

Response:

Thank you for your feedback.

Question/ Comment:

I support this ordinance. It is not causing current fence owners added expenses by requiring change on current fencing. It is asking newly installed fences to abide by this safety measure. The cost of flat top fencing is comparable to spiked fencing. So this doesn't create additional expenses for a property owner to install flat top fencing. I agree that the situation that prompted this ordinance proposal is extremely rare, but there are many instances that have proven spike topped fences to be unsafe for animals and humans. I urge you to pass this ordinance because it will make a difference in lives and doesn't seem like too much to ask for installation of new fencing.

Response:

Thank you for your feedback.

Question/ Comment:

Does the city of Austin require any permits to build a new fence in our backyard? We live in 78758, with no HOA Thanks.

Response:

Any residential fence above eight feet in height requires a permit.

Question/ Comment:

There must be exceptions allowed for projects where security is required such as data centers, all federal facilities where they contract commercial buildings like VA Admin Bldg on Metropolis and the VA Hospital on Metropolis, Ercot, Amazon facilities, etc. Point is that some facilities cannot have a flat top fence.

Response:

Thank you for your feedback.

Question/ Comment:

Per the Resolution, existing fences are addressed as follows: Applying flattop fence requirements to substantial fence repairs or remodeling of 50% or more of an existing fence. The issue surfaced due to existing fences. Why does the Resolution not require 100% of existing fence be updated to the proposed 'flattop' requirement?

Response:

The Council Resolution directs the City Manager to explore a number of options of which one is applying flat top fence requirements to substantial fence repairs or remodeling of 50% or more of an existing fence. Other options identified for evaluation include requiring flat top styles on new fences of all lengths and applying flat top fence requirements to all new fences of six feet tall or lower. Overall, it is a common practice of building codes to allow structures that were legal at one time to be brought up to current standards in increments to mitigate any potential burden on property owners while ensuring movement toward long-term compliance.

Question/ Comment:

There is no need for that type of fence, intended it seems to kill or maim innocent animals and potentially humans, in a suburban family-oriented neighborhood. I've witnessed the damage and was left with nightmares for weeks. Please help us put an end to this type of endangerment!

Response:

Thank you for your feedback.

2022 Safe Fencing Regulations

Emails

Question/ Comment Summary

April/May 2022

**Question/ Comment:**

I won't be able to attend one of the sessions, but I read the resolution and support the changes.

Response:

Thank you for your feedback.

Question/ Comment:

Fences are meant to protect--not maim and kill.

I was part of an animal advocacy group in Lakeway, Texas, that in 2018 started working to get our city to ban dangerous fencing with spiked tops or open pickets. We saw the horrific results when deer and other wildlife creatures were impaled on these fences. It is extremely traumatic for homeowners when an animal is impaled on top of a fence or caught between pickets. Finally, it takes up police time and effort as most people call them for help.

Then, we saw the local news coverage about little Kade Damian's death on an open picket fence in Georgetown. Researching, we found that another child recently died on a metal fence in Dallas. A roof worker was critically injured when he fell onto a spiked fence in San Antonio in 2018. Many adults and children are killed or seriously injured this way nationally. So, we initially thought this was a wildlife issue, but we learned it is much more. The fact is that spiked and open picket fences are dangerous to people as well as wildlife. This creates a liability issue for homeowners and businesses.

In early 2019, the city of Lakeway passed an ordinance requiring all new fencing to have continuous tops, making them safe for animals and people. I hope Austin will do the same. Fences are supposed to protect—not maim and kill.

Response:

Thank you for your feedback.

Question/ Comment:

This effort seems to attempt to repeal hundreds of thousands of years of human history; a history of fences protecting person and property.

In our urban world, some fences may only be lawn decoration. They may have limited purposes such as constraining small dogs, or preventing pedestrians from making trails across grassy areas, protecting flower plantings.

But most fences still serve the ancient purpose - protecting people and property.

I know many places with razor wire on the top of the fence. One is a vehicle yard with many trucks, each having a valuable catalytic converter to be stolen. How can this responsibility for self protection be abrogated?

I know of many fences with electric wires installed to shock any animal or person attempting to cross. Can citizens no longer protect or control livestock?? There are Urban Farms, these are not just “out in the country”. Horses live in Austin.

Fences protect the public; they prevent access to ponds and sewer facilities, protect airports; I’ll not extend the list.

In our neighborhood people raise chickens. They need protection from the coyotes, which jump fences, and from foxes, and around my house from Bob Cats. Bob cats walk along on 6ft tall fences with flat top rails. [See below]

And, the issue isn’t about fence height as much as where the fence is installed; and what is inside. Decorative fences, or fences for privacy, or fences out in public, to control people’s path, might be usefully managed. But fences serving the historic purpose of protection should never be constrained in their design. The IRS has a fence that will violate what has been proposed. Most freight yards have such fencing. Depriving citizens of their right for self protection will end in court. If the owner/business doesn’t file, their insurance surely will.



Response:

Thank you for your feedback.

2022 Safe Fencing Regulations
Zoom Virtual Engagement
Question/ Comment Summary
May 10, 2022



Question/ Comment:

The proposed language only applies to metal fences with sharp edges above the top of the line, correct?

Response:

Wooden fences are being considered as well due to the gap requirements mentioned in the resolution. The goal of this language is to decrease the possibility of possible entrapment in gaps.

Question/ Comment:

Please provide greater clarity about wooden fences. Many wooden fences have pickets across the top of the fence that are dog-eared. Would the resolution impact wooden dog-eared picket fences or would it impact something else?

Response:

Wooden dog-eared fences with no gaps would be considered acceptable. The goal of the resolution language is to limit and prevent both impalement and entrapment. A large enough gap between pickets could create an environment for entrapment. What constitutes a large enough gap for a fence to be considered dangerous is not known. Most privacy fences are currently constructed to provide no gap between pickets (aside from allowing room for the wood to expand). Such fences should not be impacted by this language.

Question/ Comment:

How would the City determine when a replacement or repair covers more than 50% of an existing fence?

Response:

The City will have to determine a practice for this. Currently, determination is made in sections. However, other methods may be more appropriate.

Determining when a repair or replacement exceeds 50% of an existing fence is an issue that exists with current Code language. It is not unique to the proposed language.

Question/ Comment:

How would the City respond when someone wants to replace a fence but their neighbor does not wish to do so?

Response:

The City has not determined how to approach this situation. Such a determination would likely occur when an ordinance is being created.

Question/ Comment:

What do fence builders and the public do while this engagement continues, before it becomes an ordinance?

Response:

The resolution is not an ordinance. The City is simply gathering information at this time to better understand the impacts of the proposed language on the public. No changes are expected to fences until such an ordinance is created and enacted.

Question/ Comment:

Is there any consideration to allow plastic finials to the tops of iron pickets?

Response:

The City has not yet considered this preventative measure. Many questions surround this solution such as whether plastic finials may fall off or break off the fence. Also, the finials may not prevent impalement or entrapment. The City will consider this suggestion and other protective measures as the process to create an ordinance continues.

Question/ Comment:

I have never heard of anyone falling onto a fence or being entrapped by one. I am trying to understand why the current safety measures are being considered. Some people enjoy the look of spiked picket fences.

Response:

Fences with spikes and large spaces cause damage on a frequent basis. That said, reporting on the issue is scant. The degree of the issue can be found by conducting research. Hundreds of stories detail the damage communities experience.

People in the community have personal experience with loved ones being hurt and killed by dangerous fences. Even when presenting to the Historical Landmark Commission, one of the Commissioners mentioned they had personal experience with one of their children becoming entrapped in a wooden fence by falling in between pickets.

Numerous cities, states, and Home Owner Associations have banned open/exposed picket fences of all types. Several international cities have also banned these fences. This action has been made as a result of the acknowledgement of the danger of this type of fencing when considering impact on children, pets, wildlife, and adults performing maintenance on property.

For people who enjoy picket fences, manufacturers produce a flat topped, ornamental fence available to the public for roughly the same cost as those that may pose a danger to the homeowner and the community.

Question/ Comment:

Does the resolution apply to chain link fences?

Response:

Yes, if the chain link fences ends with a point at the top the proposed language would apply to it. A chain link fences without a point at the top of it would not be impacted by the proposed language. Wrought iron fences would be included as well.

Question/ Comment:

In most cases in residential neighborhoods a fence is built to provide security from bad actors. Part of the security is by having a fence that is difficult to climb or get across. I am concerned safer fences may provide easier access by bad actors into someone's yard. I suggest the City rethink the purpose and intent of this proposed ordinance.

Response:

While security is often mentioned as a reason to have a fence, if someone desires access to your property they are more likely to find a way through the fence (by cutting it) than to go over it. Security companies confirm fences do not provide the level of security many people think they do. A fence that appears secure does not ensure security. Adults with poor intentions will climb the fence regardless of the appearance of security.

Sun City, Lakeway, and Rollingwood have implemented ordinances similar to the language we are discussing. In order for them to enact such an ordinance these cities found a balance between safety and security. A similar balance is necessary in Austin and should be considered when creating the language for the ordinance in the future. The goal is to provide as minimal of a change as possible to ensure the safety and security of the community.

Question/ Comment:

Would the proposed language apply to police fencing if a situation is necessary? Would it apply to the Governor's Mansion or other places that need to be protected from vandalism?

Response:

The Governor's Mansion fence is taller than six feet in height. Consequently, it would not be impacted by the resolution. If an ordinance were to be created from the resolution it would only impact fences six feet in height or lower.

Question/ Comment:

Would existing fences be required to change to fall into compliance with the a future ordinance?

Response:

No, existing fences would not be required to comply with the proposed language unless they were repaired or replaced. The City has yet to determine how to approach maintaining the safety of historical fences, but the goal will be to do so while maintaining the historical nature of the fence.

Also, the Capitol fence is roughly six inches or greater between vertical bars. The distance between vertical bars makes entrapment less of an issue than the typical three-to-four-inch gaps between vertical bars. It is also a low fence that is not located near walls, fences, or roofs from which one may fall onto it. These factors make the fence less of a concern than others.

Question/ Comment:

What are the proposed changes for wooden fences? What will the gap requirement be?

Response:

The City has not yet determined what the gap requirement should be. The circumference of the neck/face of a toddler would likely be one of the key factors when determining what space is necessary to avoid risk of entrapment.

Another factor to consider when designing a future ordinance would be the distance between horizontal bars. The horizontal bars are what enable one to climb over the fence and possibly place themselves in danger. Preventing the ability to have a foot hold and hand hold at the same time is best

to ensure safety and security of children. 45 inches is believed to be a good distance to separate a lower horizontal bar from a higher horizontal bar on a fence.

Question/ Comment:

Who or what is getting entrapped at 6 feet high?

Response:

Recently, there was an instance in Fort Worth, Texas where children went to a swimming pool surrounded by a wrought iron exposed picket fence. One child attempted to climb the fence, was impaled by the fence, and died. Aside from children, animals such as deer are at risk. In Lakeway, an contractor working on rooftop fell onto a spiked fence, was impaled and significantly injured. More evidence of damage caused by spiked fences can be found by researching. Injury is possible with any pet, wildlife, or human.

Question/ Comment:

Do you have an estimation when this ordinance is expected to go into effect? Will impacted stakeholders be notified and provided time to participate in the process?

Response:

The City is at the exploratory stages of possibly considering a future ordinance. The ordinance has not yet begun. Once the ordinance has been created, the City will conduct further stakeholder engagements to ensure input is received. People can be part of the team that designs the ordinance if they desire. Current engagements will determine whether the City moves forward with an ordinance along with the language that may be included in that ordinance. The City will strive to find a way to balance safety and security, much like other municipalities that have already enacted similar ordinances.

The swimming pool code provides some insight into how we can help ensure fences are difficult to climb. The gap between pickets will be determined later. The City will try to determine the safest space possible for a gap requirement. A horizontal part could be placed across the top of the fence to ensure nothing could get in between gaps at the top of the fence. We are not yet certain if a future ordinance would include such language. The goal is to provide people the ability to design fences as they wish as long as impalement and entrapment risks are mitigated.

Question/ Comment:

I am concerned about the increased costs on fencing the proposed language may create.

Response:

The City will investigate options for the community that may be less expensive when determining the language of a future ordinance. The goal will be to provide flexibility while ensuring safety and security of the community.

Question/ Comment:

Do you have any photographs of what is expected to be included in a future ordinance? Can you provide examples of what is considered a safe fence and what is considered a dangerous fence?

Response:

The City does not have any pictures for this engagement, but several pictures will be posted to the [SpeakUp Austin project page](#) and shared with attendees from this meeting to help them understand what is considered dangerous and what is considered safe.

Question/ Comment:

Would adhering marbles or other round objects to the sharp ends of a fence be adequate to make the fence compatible with the safety measures desired by the resolution?

Response:

The addition of the round object to an otherwise sharp fence would likely be acceptable, as long as the addition of the round object prevents possible impalement.

Question/ Comment:

Some historical fences are topped with sharp objects to keep people out. How would the City address this?

Response:

Other issues may be associated with such a fence. Anything intended to maim or harm people may go against other regulations in the City. The ordinance would not be retroactive, and the historical factor of locations will be considered when creating the ordinance language.

Question/ Comment:

Does DSD have any initial recommendations on what changes they are planning to see made for us to comment on? It is a bit more difficult to start without any recommendations or suggestions on the policy change.

Additionally, what is the specific intent of the resolution in terms of outcome? It sounds like preventing entrapment and preventing injury to children/pets/workers, anything else? I think it would be helpful for everyone to know what we are aiming at in terms of what a code change may look like.

Response:

The City does not have any language to help others understand what the Code change may look like. Some other municipalities simply required a flat top to be placed on spiked fences. The City is uncertain of what specific language will be used for a possible future ordinance, but the goal is to provide people with the ability to design something they desire. This engagement is designed to help guide the City when considering language of a possible ordinance in the future.

The intent of the resolution is to consider ways to diminish the possibility of impalement and entrapment for all in the community.

Question/ Comment:

Would this proposed amendment eliminate decorative features on the tops of gates?

Response:

If decorative features on a fence gate create an impalement or entrapment risk for the community they may be impacted by a future proposed ordinance.

Question/ Comment:

I am sure no one wants to have spears on the top line of a fence. If fences are six feet high how are kids getting to the top of the pickets?

Response:

Depending on what horizontal members a fence has, it may be climbable by children to reach heights of six feet. Impalement could be an issue. Also, someone can fall from greater heights while cleaning gutters or a window. This fall may result in injury if they fall on a spiked fence measuring six feet in height.

A fence does not need to have spiked points or finials. A flat picket can protrude above the top horizontal bar and cause injury or death to children. At least one child has died from such a fence. These fences could injure or kill anyone who happened to fall on it accidentally.

Question/ Comment:

Is this code amendment intend to restrict residential fences only, or will it also cover security fences that use razor wire or barbed wire?

Response:

Any fence measuring six feet in length or less would be impacted by a future proposed ordinance, whether it is commercial or residential.

Question/ Comment:

How will the city address this issue for fences that do not require permits? Is it still true that fences six feet high and under do not require permits?

Response:

That is true. Any residential fence above eight feet in height requires a permit. Any commercial fence above seven feet in height requires a permit. The current vision is for Austin Code Department to manage the enforcement of any future proposed ordinance. Which department manages enforcement of a proposed future ordinance may change during the process of creating the ordinance. While many fences are not permitted by the City due to their size, they may be impacted if the proposed language were to be adopted into an enforceable ordinance. Such a change may require additional changes to permit requirements as well.

Question/ Comment:

Will corrugated fences be acceptable? They are not capped?

Response:

If the corrugation edge is not protected, it may present a danger to others from possible impalement.

Question/ Comment:

How would the public construct fences that are not climbable?

Response:

The current swimming pool code indicates horizontal members can be kept 42 inches apart. Narrowing the lowest horizontal member is also an option. Both approaches will make the fence more difficult to climb.

Question/ Comment:

Could wood pickets be added between iron pickets so the top of the fence is flat/flush across the top?

Response:

Whatever design or method one uses would be acceptable, as long as the impalement and entrapment risks are removed.

Question/ Comment:

You previously argued that if people want to get in that a fence will not stop them. I would say many people have been dissuaded from trying to enter a property by a hazardous looking fence. What evidence do you have that I am wrong?

Response:

If someone wants to get in they will go through a fence as opposed to going over the top. A hazardous looking fence may dissuade young people or someone looking for an easy target. However, if someone is looking to get on the other side of a fence they will likely go through it. The Governor's Mansion has had a tall, ominous-looking fence for a long time. Even with this tall fence and with cameras vandalism occurred on the property.

Question/ Comment:

Will public meetings be scheduled again after the language is put together but before the amendment is submitted for approval?

Response:

Yes, that is the process of an ordinance. The city will schedule public meetings and secure feedback before any code changes are submitted for approval.

Question/ Comment:

Many of our older homes have chain link fences with unfinished wire at the railing level. Will those fences be grandfathered?

Response:

The future proposed amendment is not expected to be retroactive. Fences can exist as they have existed without changes unless a significant repair or replacement is required.

Question/ Comment:

Can you provide the link for more information and feedback?

Response:

Currently you may use the [SpeakUp Austin project page](#) with information to provide input. This page will accept comments from April 25, 2022 to June 5, 2022. For additional questions/comments outside of this date range, please contact DSDCommunications@austintexas.gov.

Question/ Comment:

Will you notify us when you are posting photos of what is acceptable and what is not concerning fence designs?

Response:

The City will follow up with communication from this engagement and provide whatever information we can to help you. Although we will provide examples of what may be safe, the City wishes to reiterate that none of the pictures indicate any designs currently regulated by the City. If adopted, the any proposed approach to the resolution discussed today would only regulate fence design in the future.

[The City of Lakeway](#) provides some images about what they consider to be dangerous types of fence design.

2022 Safe Fencing Regulations
Zoom Virtual Engagement
Question/ Comment Summary
May 16, 2022



Question/ Comment:

Is anything else being considered in the fence ordinance other than getting rid of spikey tops on fences? I would like to see a change to the height allowed between properties, not the height around properties that may obstruct the view of traffic. Allowing higher fences between properties might be a good thing to consider.

Response:

At this time the City is only considering what is mentioned in the resolution. The resolution only asks the City to investigate options for flat-top fences. The changes you have suggested are not being considered. Thank you for your input.

Question/ Comment:

Some of the photo only refer to metal fences. Does this resolution pertain to a dog-eared, wooden, privacy fence?

Response:

A dog-eared wooden privacy fence with minimum to no gap would likely be considered safe under the proposed language.

The resolution could apply to wooden fences if the pickets are too far apart. This could result in entrapment.

Question/ Comment:

Based on what I have read and seen, I have been unable to determine what is included in the proposal. I cannot imagine everyone in Austin replacing their privacy fences. Many of these are dog-eared.

Response:

The City is not considering mandating a retroactive change. The City does not intend to require residents to change existing fences unless significant remodel or repair is required. New fences would be impacted by the proposed language.

Question/ Comment:

What are the statistics of injuries which have instigated this new regulation?

Response:

In 2018 the child of a woman died on an exposed, open-picket fence. This fence measured roughly four feet in height with a three-to-four inch opening between pickets. This child was able to pull his head to the top of the pickets and place his head between them. When the child lost balance from the lowest horizontal member on the fence, the child died.

Aside from this single experience, numerous communities and municipalities in the United States and internationally have banned open-picket/exposed picket fencing. Each location has its own reasons for banning the use of such fencing. Locally, Lakeway, Bee Cave, Rollingwood, and Sun City have all enacted regulations to achieve what is outlined in this resolution.

Dangerous fences pose a hazard to wildlife such as deer, as they can become impaled or trapped in the fence. People working on homes have also been harmed from pointed fences, especially when they fall from ladders or rooftops onto them.

Although advocates have attempted to find more information about the dangers of fences, no data exists to understand the full extent of the issue. Basic research will result in many articles about people harmed by pointed fences or fences with gaps. Advocates have compiled some of the information they have discovered at <https://www.kadeskrusaders.org/>.

The current engagement is not discussing regulations to be implemented. Instead, it is gathering input from the public to better understand the possible desire (or lack of it) for safe fencing regulations. If an ordinance were to be formulated it would be based from the feedback received during this engagement. Another public process would begin if an ordinance were created to gather feedback from the public before any regulation would be implemented. If feedback is overwhelmingly negative, an ordinance may not be considered.

Question/ Comment:

How would the City regulate the proposed language? Would the City ask for permits? Requiring permits may add another layer of bureaucracy. If enforcement is conducted after the fence is built, there will be a financial burden on homeowners and contractors who may not be aware of the City's guidelines. I have concerns people will not know about a requirement until enforcement occurs.

I would appreciate a discussion about architectural design and how the goals of this resolution align with certain designs (such as gothic or Victorian). I would also like to be involved in discussions about the impact of the proposed language on downtown areas.

Chain supply issues are currently impacting the construction industry. This impacts fence builders. Fence contractors may not have the correct inventory to provide for the fences detailed in the proposed language. Also, contractor inventories may consist of a great investment in designs that do not comply with the resolution language. How will the City consider this?

Response:

Concerning enforcement and permitting, a building permit is required for residential fences measuring seven feet or higher. A permit is required for commercial fences for fences measuring eight feet or higher. Austin Code would be responsible to enforce all fences below this height. There are no plans for the City to require permits for fences that are shorter than the lengths mentioned above. Although many people may not know about a requirement until enforcement occurs, this is an issue that occurs with regulations that are currently in place and enforced. The proposed language will not impact the fact this issue exists.

The proposed language is not expected to be retroactive in nature. It would only impact fences in the future. No further changes to permitting are expected. It would only impact fences with spikes on top and those with gaps between posts.

Concerning supply chain issues, industry frequently adapts to the expectations of government to ensure the safety of the community.

Thank you for the feedback. The points mentioned above will be considered before the City moves forward with the creation of any ordinance.

Question/ Comment:

I have several concerns I would like to note:

- The proposed language suggests if 50% or more of a fence is to be repaired/replaced the entire fence would need to be replaced. This could add to the cost of fences and properties in the City.
- The owner of a property may desire a specific design of fence that will may not be allowed under the proposed language if it becomes an ordinance.

Response:

Thank you for the feedback. The points mentioned above will be considered before the City moves forward with the creation of any ordinance.

Question/ Comment:

Would this ordinance apply to pool enclosures, given that the primary purpose of pool fencing is to keep people out?

Response:

Specific requirements already exist for swimming pool enclosures. These requirements do not mention spiked fences or entrapments, but they do indicate how to keep people out of pool areas. Considering this, changes to the main part of the fence will likely not change, but the top may. Spiked fences and entrapments do not appear to be considered in any type of fence regulation. In the City of Austin, the only thing being regulated on fences is barbed wire fence. However, fences without barbed wire can be dangerous too, and those hazards should be considered. Keeping people out and injuring them are two separate issues we hope to address with the proposed language.

Question/ Comment:

Many residents in neighborhoods I know are not aware of this engagement. Will there be any further communication to neighborhoods educating them about this topic? Greater education of the public about this topic could lessen the degree that contractors are required to instruct residents about what the City will allow.

Response:

The City is making a great effort to include potentially impacted groups and communicate the engagement to residents in the City. More opportunities for engagement will occur if the proposed language is further considered to become an ordinance. The City will present to the Austin Neighborhoods Council or other groups that may be able to help spread the word about this engagement and others. The goal is to ensure stakeholders and the public understand proposed changes, prepare for changes, and work with them as changes are applied.

Question/ Comment:

What would constitute substantial remodel of a fence, triggering the rule? What about prep and paint of an iron fence? Does that trigger the rule?

Response:

Those details are not yet available. The City has yet to work them out. Determining when a fence repair reaches 50% of the structure is a current issue that has not been entirely resolved. Painting would most likely not trigger any regulations. Most likely, the City would begin enforcement considerations when

discussing replacement of parts and major components of a fence. Details beyond this are not currently available.

Question/ Comment:

Will there be a change to allowable gaps in fence pickets? As a landscape architectural professional, my understanding is that gaps between pickets are allowable up to 4 inches.

Response:

A change in allowable gaps is a possibility, especially at the top of the fence. The focus for the proposed language is on the top of the fence where entrapment and impalement could occur.

Question/ Comment:

If an existing iron fence is decorated with finials, and it requires occasional replacements, at what point would the rule be triggered? 50% or more of the finials? Would less than 50% of finials NOT trigger the rule?

Response:

The City does not have those details yet. If finials are the only thing on a fence to be replaced, it is difficult to see how they could amount to 50% or more of the entire fence structure. Current International Building Code generally refers to a percentage of major components or structural components. A similar approach would likely be taken for this topic.

Question/ Comment:

I support the development of the proposed language into an ordinance if done correctly. There needs to be a very clear definition of what this ordinance would apply to. Commercial fences should be excluded from any future ordinance. Many commercial fences are designed to keep people out of an area for their own safety and the protection of property. This should be considered when drafting any future ordinance. Also, homeland security provisions that allow for ornamental iron fences to be five feet tall with pressed spear tops per American Society for Testing and Materials (ASTM) standards.

Response:

The City is at a resolution stage. An ordinance is not the topic of this engagement. As the resolution is currently written, there is no difference made between residential and commercial fences. Both could be impacted by a future ordinance depending on the wording of the resolution. Thank you for your feedback.

Question/ Comment:

A clear definition should be determined about how the height of impacted fences will be measured. Even though the resolution applies to ornamental iron fences six feet tall or smaller, how to measure this is not clear. Would a fence with an extended picket or pressed spear be considered the top of a fence or would the top rail be considered the top of the fence? The language in the current resolution appears to be geared to limit pressed spears and pickets on fences measuring four feet tall and five feet tall. Please consider measuring to the top of the fence, and not the top rail.

Response:

Thank you for the input. How to measure a fence is an existing issue the City experiences. This would be a good opportunity to revisit how the City consistently measures fence lengths.

Question/ Comment:

The City should consider an exclusion for wooden, as many of the issues discussed pertain primarily to metal fences and not wooden ones. An ordinance that tries to prevent every issue will create issues of its own. How will the City respond to white picket fences that exist in historical parts of the City? The City should consider all parties who may be impacted by a future ordinance.

Response:

Wooden fences have presented dangers to the public at times as well. Wooden fences can have the same kind of exposed spacing in between pickets that metal fences do. This spacing presents a danger for the public. To ensure safety in the community the design of the fence should be considered as much as the materials. Other municipalities have created similar ordinances and maintained the historic nature of some fences.

Question/ Comment:

Many small business have inventories of fences that may not be compliant with a future ordinance. If an ordinance is considered, please provide time for small businesses to adjust to the changes.

Response:

Thank you for your input.

Question/ Comment:

Would finials with blunted or rounded tops be allowed under the proposed code?

Response:

If blunting or rounding a finial prevents entrapment or impalement such an approach may be in compliance with a future Code change.

Question/ Comment:

Many fences do not require a permit, so assuming that the general public would know they can't build a type of fence (built on residential homes for centuries) puts undue responsibility on homeowners.

Response:

Thank you for your input. The City agrees notifying people after the fact may be an issue. Possible ways to mitigate this issue may be to require a permit for shorter fences. The permit could be an express permit, which would ensure the applicant is aware of the expectations from the City. The City will continue to think of possible ways to approach this issue as the process continues.

Question/ Comment:

What is the max gap?

International Building Code already regulates spacing between vertical parts of a fence. If the City deviated from this standard, the City would not be allowed to have any ornamental fences in the City. The way to achieve the ordinance goals is to focus on height limitations, not spacing.

Response:

Currently there are two sources for information about gaps and helps determine what safe distances could be:

- ASTM F1148. This pertains to playground equipment. This standard discusses gaps between 3.5" and 9" as something that could create an area where neck entrapment could occur.
- The Building Code and Residential Code language pertaining to guardrails.

Question/ Comment:

How will historic preservation be applied to existing spiked or finial topped fences? Will existing fences of historic nature, or already protected, be exempt? Would the fence be exempt even if more than 50% of it were repaired?

Response:

Historic fences would be exempt. The City has no intention to make any ordinance retroactive. Historic fences would most likely be exempt even if more than 50% of the fence was repaired or replaced.

Question/ Comment:

Horizontal fences are more expensive than vertical ones. Please consider ways to decrease the cost to the community made by the requirements created by any future ordinance.

Response:

Thank you for the input.

Question/ Comment:

It seems like the issue is really the spacing between pickets rather than the pickets themselves. Is there any thought to regulate spacing between horizontal rails and spacing between pickets rather than the pickets themselves?

Response:

The resolution mentions a flat top rail across the top of a fence, which should resolve most issues that may arise. There may be other approaches to ensuring the safety of those in the Community. The City is currently trying to determine how to balance the safety of the community while allowing flexibility when designing fences.

Question/ Comment:

Few residents are aware of rules that have been made in the past. The City should make a greater effort to communicate to residents what changes are expected.

Response:

Thank you for the input.

Question/ Comment:

I am concerned that this review and potential code is being instigated based upon a tragic and emotional incident, rather than actual data. Prior to this call, I have done extensive searches for the data about incidences, and – despite comments to the contrary - I am not finding the data. “Lots of cases” or “many municipalities have made these changes” or “lots of wildlife” isn’t compelling for such a sweeping regulatory change. What efforts will be made to compile actual data and provide it to council before such a code is written?

Response:

No database exists at the national or state level. Advocates have searched and found stories relating to impalement and entrapment in fences. Fence manufacturers fail to recognize the danger posed by certain types of fences, but the impacts are felt in both urban and rural areas. People are not the only ones impacted by dangerous fences. Wildlife is impacted by dangerous fences as well. Rollingwood, Sun City, and Lakeway have adopted ordinances to improve the safety of fences as well. The City will continue to gather data to better understand how fences have impacted the community. Ensuring the City creates a category when a resident calls 3-1-1 may be a good way to track fence injuries in the future.

2022 Safe Fencing Regulations
In Person Engagement
Question/ Comment Summary
May 26, 2022

**Question/ Comment:**

Fences fall into several categories: residential, commercial, and commercial-security, and swimming pools. Fences are meant to do something, which is generally to keep people out of an area.

Response:

Thank you for your input.

Question/ Comment:

What is the data on the number of incidents with fences in the area?

Response:

Specific information is difficult to obtain. Each department handles fence injuries differently. For example, the Fire Department counts all rescues the same, whether they involve a fence or not. When 311 receives a call, they forward calls regarding fence injuries to 911. 911 has no specific category for incidents involving fences. EMS provides the best information. They were able to provide specific information from billing. Although they were only able to reference back to 2018 they were able to note six incidents with a fence. Austin Wildlife and Rescue maintains no records about this issue. Austin Police Department does not maintain records specific to the topic.

Question/ Comment:

Please help me understand how this will apply to wooden fences.

Response:

Fences with small or no spaces in between the vertical boards are best to reduce entrapment. Fences with a flat top are best to reduce impalement.

Question/ Comment:

OSHA currently regulates safety at worksites. Would these regulations protect workers you claim may be injured by falling on spiked fences?

Response:

Those regulations may play a part in safety, but they may not for a small contractor or for a homeowner.

Question/ Comment:

Some people desire ornamental iron fences with spikes.

Response:

The language in question would only apply to fences six feet in length or shorter. If a design outside of what is considered safe, the person could build a fence taller than six feet in length. Only residential fences taller than seven feet and commercial fences taller than eight feet currently require permits.

Question/ Comment:

How would the proposed language impact fences in place for many decades? Some people have chain link fences that end with twisted sharp points at the top.

Response:

The City does not plan to impact historic fences. The proposed language will only apply to new fences or those where more than 50% is replaced or repaired. Fences on state or federal property would not apply.

Question/ Comment:

The Code requirement of 3-4 inch maximum gap between vertical parts of a handrail may be adequate for the eventual ordinance.

Response:

This space may still be too wide to allow for entrapment of some people, especially children.

Question/ Comment:

Accidents happen. People learn from their mistakes.

Response:

Many municipalities have seen the danger posed by fences and adopted ordinances. Municipalities in California, Canada, and Texas have all taken measures to reduce the dangers of fences to wildlife, children, pets, and residents. Given this knowledge, future accidents could be prevented. Once more people understand the potential for danger, they are more likely to make changes to increase safety. Sometimes one mistake results in death.

Question/ Comment:

Pool fences have insurance requirements restricting some designs, especially for fences shorter in length.

Response:

Pool fences are required to be difficult to climb.

Question/ Comment:

Many contractors have a large surplus of fences that may not comply with this language due to supply chain issues.

Response:

The City will take this into consideration when designing any ordinance language.

Question/ Comment:

Rules in the City of Austin are numerous and complex. They change frequently. Consequently, it can be difficult as a contractor to understand what is allowed and what is not. Homeowners and Homeowner Associations are frequently not provided adequate knowledge of changes.

Response:

Improved communication is a goal when educating the public about changes to any process within the City. Targeted communications to contractors and homeowner associations were central to the outreach effort made for this engagement.

Question/ Comment:

For economic reasons most fences constructed now are wooden. They are built for privacy. Ornamental fences are rare. Most are six feet tall in length. Almost all would comply with the proposed language.

Response:

Thank you for the input.

Question/ Comment:

Some of the proposed fence designs could still pose a danger for some people to catch their clothing.

Response:

The City will take this into consideration when determining the wording for any ordinance created as a result of this engagement.

Question/ Comment:

How does the City determine the height of a fence?

Response:

No specific direction is provided to determine how to measure the height or length of a fence. It is difficult to monitor the height of all fences.

2023 Safe Fencing Regulations Engagement
Building And Fire Board Of Appeals
Question/ Comment Summary
January 25, 2023



Question/ Comment:

The presentation slides mentions the original resolution language indicating when this rule would impact the public as 50%. This language is different from the proposed language, which is 100%. Why is the language weaker than that suggested on the resolution?

What happens between 50 and 100 percent? What constitutes a 100% of a fence? Is each of the four sections/sides considered a separate fence? How would this proposed language apply to a fence where the property owner only has responsibility for two sides? In a situation where fencing is shared determining 100% may be difficult.

Response:

This was done because a residential fence can belong to three or four neighbors. Causing one neighbor to replace their fence solely due to their neighbors' replacing sections of their fence could create a vicious cycle where neighbors do not want to do anything. This could be negative for home owner, especially if they do not have the resources to make the necessary changes to come into compliance with the proposed language.

The current language only requires replacement when entire fence is replaced. Engagements with stakeholders determined the 50% directive was not possible without creating significant issues for the homeowner. Instead, these engagements suggested the number 100% be used.

If someone replaced one side/section of a fence consisting of four sides/sections it would be 25% of the whole. All four sides/sections would have to be replaced.

Question/ Comment:

Is a permit required to build a fence? How would this proposed language be enforced? If the proposed language is difficult to enforce that may be an issue.

Response:

If the proposed language were to become an ordinance it would be enforced by Austin Code. It would be the responsibility of Austin Code to determine how best to enforce the ordinance. Compliance would most likely be complaint-based.

While the proposed ordinance language may be difficult to enforce there is value to the community to shine light on the issue and educate about alternatives to dangerous fence designs.

Question/ Comment:

What is the height requirement for a permit?

Response:

Any residential fence above eight feet in height requires a permit. Any commercial fence above seven feet in height requires a permit.

Question/ Comment:

What is the suggestion to deal with situations where two property owners may dispute responsibilities for repair and replacement of adjoining fences?

Response:

Fence repair and replacement is the responsibility of the property owner. Multiple people can be involved over all four sides of a fence if the properties are adjacent to one another.

Question/ Comment:

Can the proposed language be amended? Is it a requirement to start the process again with stakeholders for any changes made? What would the amendment process look like? Will the board see whatever changes are made before the ordinance is considered final?

Response:

Yes, but further engagement from stakeholders may be required depending on the changes? Sentiments of stakeholders need to be considered for the proposal before going to council. We do not want protests or people to be surprised about the ordinance. The process would be a repeat of what has already been accomplished to date. The board will be presented with any changes in the language before they are considered final and presented to Council.

Question/ Comment:

What do advocates think of changing the language now and going back to stakeholders (if this is necessary)? I am willing to consider passing the language as is if advocates view the content as acceptable.

If stakeholder input were sought again, how much engagement would come from homeowners, who are most impacted and how engagement would come from much through businesses/contractors?

Response:

Advocates present voiced a desire to see some action result from this process. However, advocates also expressed results should happen right in a way that makes the most impact. They understand where the 100% concerns today are coming from voiced in the meeting, but they believe the 100% language was used to align with business owners and contractors. When determining such things one must ask how long it would take to go back through the stakeholder process and if doing so is in the benefit of the public.

Advocates believe if engagement were to start again it would most likely be contractors and businesses who participate in the process more than homeowners.

Advocates expressed concern worry if the stakeholder process were restarted instead of going forward momentum could be lost. They agree the 100% threshold is not perfect, and would prefer the figure be 50%. The advocates commended the City for reaching out to the community to determine stakeholder sentiment.

Advocates explained most fence repairs are complete replacements, not piecemeal changes. Advocates suggested the current language could be strong and impactful and allow changes to some of the language in the future if desired.

Advocates explained other cities (Lakeway, Rollingwood, and Sun City) that have passed similar measures to protect they public have focused primarily on new fences. Advocates support the proposed language. They mentioned other codes are currently enforced by complaint such as impervious code. Remodels have a similar approach to percentages and the city has not let the issue of determining the percentage stop from improving. Advocates voiced a will to continue to advocate for the cause.

Question/ Comment:

If someone wants to replace less than 100% how do we prevent impalement and entrapment? The other items that have exemptions are understandable, but the intent should be maintained.

Response:

One could build above six feet and still have these issues, but children are less likely to be involved. Also, most residential fences are not allowed to be over six feet. The proposed approach allows businesses to maintain security while complying with the ordinance.

Question/ Comment:

The language you have provided is not an ordinance. Generally we are provided an ordinance. Why is this not written as an ordinance? What is the board being asked to pass? Has a lawyer reviewed this language?

Response:

The language is a proposed change. It will eventually be an ordinance. The board is being asked to consider the language for a future ordinance. The language you see will eventually be an ordinance, but the city's lawyer does not wish to draft an ordinance at the present time. The language presented has been reviewed by a city lawyer.

Question/ Comment:

Is it possible to include language indicating a fence may be changed less than 100% but it may not be changed to a spiked fence.

Response:

This change could be considered, but we would want to determine whether the inclusion of such language will require more engagement with stakeholders.

Question/ Comment:

How long will this ordinance allow for builders to comply? I believe I read somewhere after this is adopted contractors and builders will be provided one year to comply. This time period seems too long. I would prefer to see this ordinance come into effect no more than six months following adoption.

Response:

This topic has been discussed, but no specific date is included in the language.

Question/ Comment:

Item 2a mentions "Existing fences where less than one hundred percent of the existing structural component that maintain the structural integrity of the fence is being replaced;" This language does not seem to include pickets. If I follow this language correctly, someone could remove pickets and replace them with more pickets. That would go against the sentiment desired by the resolution. Item 2a only addresses structural components, not pickets. The language must include pickets.

Take out A and add "all new fences" instead of "all fences six feet"

2a could also be amended to say "existing fences where less than 100 percent of the existing fence is repaired/replaced." This approach would avoid mentioning "structural."

2a could be deleted to only include mention of "existing fences."

I would like to see the lawyer's thoughts about item 2a.

Response:

The City can consider changes to the language if the board suggests them. The lawyer said the original language in the resolution was not enforceable, and they proposed the language you see. The lawyer would determine if suggested changes require more stakeholder engagement than has already been done.

Question/ Comment:

Although this language is not perfect, I am comfortable suggesting the language be adopted if we can amend it eventually. Is there a way this language can be approved contingent upon our amending it at a later date to make it more restrictive? I would like to see this ordinance come into effect at 50% of repair or replacement, not the 100% currently mentioned. I worry about spiked fences being built if this process is drawn out more.

Could a motion be made to move this ordinance forward as it is currently worded along with a recommendation or motion to have city staff post information about the topic on the city website?

Response:

The board is welcome to attach whatever conditions or changes they desire to the passing of the ordinance. Council will review the ordinance along with the boards suggestions before any adoption occurs.

Question/ Comment:

The way this language is written only makes it applicable to new fences. People could find a way around this. Maybe language should simply state "new fences only."

There are too many loopholes in the existing language. Ensure there are no loopholes in the ordinance language. How do we calculate 100%? 100% of one side may be easier. Defining the side using cardinal directions may make enforcement easier to identify. Even then, if the fence is not 100% intact when it is replaced or repaired questions remain about how the City of Austin will enforce this.

If the language remains as it is a fence will be two different fences (one old, one new) by the time the city sees it. If this applied only to new fences the ordinance would be easier to enforce, and we could amend it later to include existing fences.

The way the language is currently written it can be easily amended. However, this may also make it less enforceable.

Although the board wishes to pass something to address the safety issue caused by fences I do not want Council to question why we proposed the language in this ordinance.

Response:

This change of language could be complicated by how one determines "new." Older products could be used for construction materials which may complicate enforcement. The language will also allow for people to avoid compliance if they build taller than 6'. There is no way to write the ordinance where someone will not be able to circumvent it.

Question/ Comment:

Will the adoption of this ordinance result in an amendment to the building code?

Response:

Yes, adoption of this ordinance will result in changes to both the building and residential code.

Question/ Comment:

If the public is frustrated with these changes and they come to the board to address their grievances, will DSD continue to respond to public frustrations? How will homeowners know about the proposed changes?

Response:

DSD has made numerous efforts to communicate this change to all stakeholders in the community, including homeowners. Significant public involvement in the future is not expected. The department can continue to assist with the process as requested.

Advocates concurred with this sentiment, mentioning the engagement process accomplished by the City has educated the public about an issue they did not realize was impacting the community. Further education by the City to the public was suggested, especially via an informational website. Advocates also noted a generally positive reception by the public when learning about the issue and how to address dangers posed by fences in the community.

Question/ Comment:

Can we request Austin Code to come and talk to the Board about this issue?

Response:

Yes, Austin Code can come and speak to the board about this issue at a future meeting if that is requested by the board.

Question/ Comment:

For residential fences, Home Owner Associations (HOAs) usually enforce. The HOA rules are governed by the HOA. Often people simply build a fence without consideration of HOA or municipal rules. Moving this forward may not achieve what is desired in the original resolution, and the ordinance may come back to the Board.

Response:

Thank you for the feedback.

Question/ Comment:

Who all has reviewed the proposed language and had an opportunity to provide input?

Response:

Stakeholders in the general community, contractors, city staff, and city lawyers have all had time to review the language and been provided the opportunity to participate.

Question/ Comment:

Would it help for the committee to meet with stakeholders? The board would like to do whatever possible to ensure all stakeholders are content with the proposed changes.

Response:

Appeasing everyone is unlikely. If the board wants to achieve the greatest degree of change there would need to be a requirement for building permits on all fences. This would take care of a lot of the concerns voiced by the board. A requirement for building permits on all fences could be accomplished during the next code cycle if desired by Council.

Question/ Comment:
How would the proposed ordinance apply if someone claims they are not constructing a fence?
Response:
This issue already exists. Some people claim they are building a retaining wall instead of a fence. The proposed ordinance would not change this.

Question/ Comment:
Do all individual items 1, 2, and 3 in the language stand separate. If an issue is found with 2 would 1 and 3 remain? All items need to be able to stand alone to be legally sound. If one item depends on another this approach may be weaker.
Response:
The beginning of the language to number three tells you what is covered. Items 3, 4, and 5 give more detail. The top part tells you what it applies to and does not apply to. The only part that is specific is the exemptions.

Question/ Comment:
The nature of this meeting is not adequately publicly-facing. This approach deprives the ability of some to voice their thoughts.
Response:
The agenda and the meeting are public. The public has also been given numerous opportunities to engage and provide input in various ways over the past year.

Question/ Comment:
The board will table the proposed language until a workgroup is created of several board members. This work group will review the language and determine possible alternatives to what has been proposed. Input from the lawyer will be sought and subject matter experts will continue to be involved in the process.
Response:
Thank you for the input.


**HOUSING &
PLANNING**

Affordability Impact Statement

*Proposed Ordinance, Safe Fencing Regulations per
Resolution No. 20211104-039
2/23/2023*

Proposed Regulation

With exemptions, the proposal includes prohibition of the following features in all new fences six feet in height or less:

- *Spiked pickets, spiked bars or other spiked decorative elements above the top horizontal backer rail*
- *Vertical picket spacing between 2 –9 inches above the top horizontal backer rail*
- *Fences that create a substantial risk of entrapment or impalement as determined by the City also prohibited*

Affordability Impact

Housing and Planning staff find that the proposed regulation will have a **neutral** impact to housing affordability.

Manager's Signature _____

Division Manager, Inclusive Planning
2/23/2023