



# Animal Code Updates

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September 21, 2020



# Follow up on City Council's request to evaluate Commerce City's pit bull ban (Sec. 4-2011)



# Purpose

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- The City Council requested information about the pit bull ban, its history, pros/cons, efficacy, and enforcement
  - Review the circumstances leading to the ban’s passage
  - Evaluate the efficacy of the ban in its purpose
  - Review proposed changes to the Animal Code
  - Discuss City Council’s desired outcomes and provide staff direction

# Background

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- In 2005, the City passed Ordinance 1593 banning pit bulls from Commerce City
  - Previously, the 1987 Ordinance 817 only required pit bull owners to securely fence their yards
  - Other cities had recently passed pit bull bans
  - A number of pit bull attacks on people and pets had recently occurred in the City and Metro Area
  - Public hearing sparked citizen engagement, with 40 people speaking

# Breed Specific Legislation Pros and Cons

Pros	Cons
There is a history of pit bull attacks within our community	BSL unfairly targets responsible owners and animals
Pit bulls cause more severe injuries when attacking than do other breeds <sup>1</sup>	Pit bulls have the same temperament as golden retrievers <sup>2</sup>
BSL is effective at reducing dog-bite induced hospitalization <sup>3</sup>	BSL causes owners to hide pit bulls, exacerbating health and behavior problems
Proactive enforcement	Potential ADA violations of service animal protections

# Current Commerce City Pit Bull Ban

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- It is unlawful to possess a pit bull **except**:
  - City employees as dictated by their duties
  - Transportation through the city
  - Sanctioned dog shows/exhibitions with police approval
  - Grandfathered animals
- Pit bulls are defined as any dog displaying a majority of characteristics of the American pit bull terrier, American Staffordshire terrier, or Staffordshire bull terrier
- Registration for pit bulls prior to 11/1/05
  - Pit bull must have vaccinations and microchip
  - Owner must carry \$100,000 in liability insurance
  - Pit bull must be kept in enclosure or locked in house unless muzzled and on leash

# Violations Brought to Court

Year	Pit Bull Ban (Sec. 4-2011)	Vicious Animal (Sec. 4-2010)
2020 (July YTD)	2	17
2019	3	29
2018	3	21
2017	6	11
2016	5	16
2015	4	24
2014	9	14
2013	3	6
2012	4	5



# Code Changes Required to Remove Breed Specific Ban

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Breed Specific Legislation



# Overview

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- Remove breed-specific language
- Two-tiered system
  - Dangerous animal – Has attacked a person
  - Vicious animal – Has seriously injured/killed a person
- Regulations on dangerous animals
  - Dangerous animals may be re-classified as vicious based on subsequent actions
- Vicious animals are forbidden

# Dangerous vs. Vicious Definition

Dangerous	Vicious
Attacked a person causing injury	Attacked a person causing serious injury/death
Attacked domestic animal causing serious injury/death	Attacked a person causing injury on two or more occasions
Threatened person or domestic animal while not on owner's property	Attacked a domestic animal causing serious injury/death on two or more occasions
Shows tendency to attack/threaten when not provoked	Has been trained for fighting or is kept for that purpose
Acts in any manner that should cause owner to know it is potentially dangerous	



# Dangerous vs. Vicious Regulations

Dangerous	Vicious
Must be secured in house or enclosure when not on leash with an adult	Vicious animals are subject to hearing and the following actions depending on result
Registration and fees, liability insurance of at least \$100,000	May be removed from city immediately
Visual identification as dangerous animal	May be impounded pending civil or criminal trial
Notification of escape, attacks, death, sale	May be destroyed
Limit of one per household	

# Impoundment Process

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- Animals may be impounded if they
  - Have acted in a dangerous or vicious way
  - Are at-large
  - Are mistreated, abandoned, neglected
- Animal control must submit request for impoundment and affidavit within 24 hours
- Owner must be notified within 24 hours
- Municipal court reviews and rules on impoundment request

# Impoundment Hearing Process

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- Owners may petition for a hearing
  - No later than 7 days after impoundment
  - Not if animal is found at-large
- City must provide preponderance of evidence
  - Animal is likely to be found vicious
  - Animal is likely to be found dangerous and owner cannot adequately care for it
  - Animal is kept in violation of law
  - Animal is likely to experience pain and suffering if released to owner
- Otherwise animal is released to owner

# Disposition Hearing

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- Requested by animal control agent to determine if animal is vicious or dangerous
- City must provide preponderance of evidence
  - Animal is vicious
  - Animal is dangerous
  - Destruction is appropriate because animal is likely to cause future injuries
- Owner must follow regulations for determined designation

# Alternatives

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- City Council could take the following actions:
  - Continue with current regulations
  - Implement code changes to remove BSL
  - Direct staff to develop alternatives
  - Refer decision on proposed changes to ballot for citizen vote



# Backyard Bee Keeping

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# Purpose

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- Provide background information related to urban beekeeping
- Address common concerns and benefits for health, environment, social, economic factors
- Review model ordinance
- Obtain Council direction on drafting an ordinance

# Background

- Urban beekeeping improves gardens and crops, providing more local fresh food
- Estimated 120,000 beekeepers in the US – most are hobbyists

Domain	Benefit	Concern
Health	Increases access to nutritious food sources	Bee sting allergies
Environment	<ul style="list-style-type: none"> <li>• Increase biodiversity</li> <li>• Mitigate Colony Collapse Disorder</li> </ul>	
Economic	<ul style="list-style-type: none"> <li>• Produce honey, wax, other products</li> <li>• Increase pollination of crops</li> </ul>	<ul style="list-style-type: none"> <li>• Cost of permits and equipment</li> <li>• Jurisdiction cost for monitoring/regulation</li> </ul>
Social	<ul style="list-style-type: none"> <li>• Increased awareness of food cycle and connection to agriculture</li> <li>• Positive activity</li> </ul>	<ul style="list-style-type: none"> <li>• Fear of stings</li> <li>• Gravitating to nearby shallow bodies of water</li> </ul>



# Beekeeping in Colorado

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- Colorado State Beekeepers Association has developed BMPs for urban and small-scale beekeeping
- Many Front Range communities have adopted ordinances to allow and reasonably restrict urban beekeeping
  - Arvada, Aurora, Brighton, Denver, Littleton, Thornton, Westminster
- Common issues addressed in ordinances:
  - Species and hive restrictions (number and type)
  - Location on the lot (e.g. backyard)
  - Removal of beekeeping equipment and bee combs from apiary
  - Flyway barriers and setback distances
  - Source of fresh water
  - Re-queening an aggressive colony
  - Educational requirements (e.g. beginner beekeeping class)
  - Permit and fee process

# Hive Types

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Langstroth Hive



Top-bar Hive



# Permitting Consideration

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- The issuance of a beekeeping permit has traditionally been considered a BMP, but municipalities are starting to shift away from a permitting system
  - Northglenn, Thornton, Broomfield, Westminster, and Adams County **do** require permits
  - Fort Collins, Wheatridge, Lakewood, Aurora, and Parker **do not** require permits
- Giving staff right of entry is helpful, which is established in a permit
- If we want to collect a fee, which is reasonable, that is best done through a permitting process
- **CD's primary concerns:**
  - Is a permit necessary?
  - If yes, are site plans necessary? Is reviewing beekeeping plans an efficient use of Staff time?

# Permit Numbers

- There have not been high numbers of permits generated in communities:

Community	Population	# of Bee Permits
Adams county	93,000	0
Broomfield	69,267	50
Lafayette	28,924	15
Louisville	21,163	1
Thornton	139,436	15



# Other Considerations

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- We would need to allow beekeeping in almost all zoning types
  - Allows for use in community gardens
  - Avoids discrimination concerns
- Many of the HOAs in the Northern Range prohibit beekeeping or do not have large enough yards to meet potential setback requirements
- The Refuge may allow a program for beekeeping on their property

# Components of Thornton's Ordinance

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- Beekeeper permitting requirements
- Species limitations – honeybees only
- Re-queening
- Allowed in areas zoned for agriculture, single-family use, and nonresidential in conjunction with a community garden
- Hive density maximums:
  - One-quarter acre or less: two hives
  - More than one-quarter acre but less than one-half acre: four hives
  - More than one-half acre but less than one acre: six hives
  - One acre or larger: eight hives
  - Regardless of lot or tract size, hives that are situated at least 200 feet in any direction from all property lines are not restricted
- Outlines sound beekeeping practices, including requirements for flyaway barriers water source
- Inspection requirements
- Hive destruction provision if beekeepers do not properly care for colony\*\*
  - Legal has concerns with this





# Alternative Ordinance – Wheat Ridge

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- Private beekeeping is allowed on any land in Wheat Ridge, regardless of zoning, as long as it follows these two requirements (City Ordinance, Section 26-607):
- Beehive structures must be enclosed within a fenced area or fenced yard.
- Beehive structures cannot be in a front yard and must be placed at least 15 feet from back and side property lines.

# Safety and Nuisance Concerns

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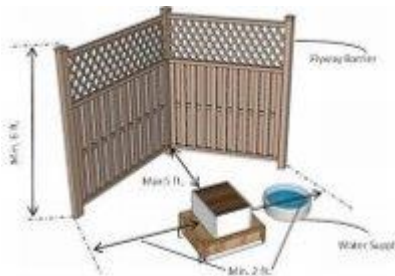
- Colonies can become “Africanized”
  - Dangerous hybrid breed kills colony’s queen and replaces her with an Africanized queen
  - Colony becomes aggressive
  - No incidents in Colorado since 2014
- Across the Front Range, bee-related concerns generate under five calls a year



# Safety Concerns

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- Fear of stings/allergies
  - Honeybees are bred for gentleness and reduced swarming
  - 7.5% of population is allergic to honeybee stings
    - Allergies to yellow jackets and wasps are more common
  - Flyway barriers can force bees to gain altitude quickly and fly over people



# Expertise and Cost Concerns

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- Staff does not have the expertise or equipment to properly handle inspections
- Cost of monitoring
  - Approval of an ordinance allowing beekeeping could lead to increased Animal Control/Code Enforcement calls for service
  - Potential budgetary impacts depending on level of mitigation efforts

# Discussion

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- Does Council want Staff to draft an ordinance allowing back yard bee keeping?
  - If yes:
    - Does Council want the City to issue beekeeping permits?
    - Does Council want the City to inspect hives regularly, or as potential complaints come in?



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# Questions and City Council Feedback