



## Legislation Text

---

**File #:** Pres 20-278, **Version:** 2

---

### Animal Code Updates

#### **Summary and Background Information:**

Council directed staff to Staff review the current animal code (chapter 4 of the municipal code) and make updates, particularly focused on Commerce City's breed-specific legislation (Sec. 4-2010 and 4-2011, vicious animals and pit bulls). Council also requested additional information on the history of Commerce City's BSL, pros and cons, its efficacy, and its enforcement. Additionally, Council requested information on the possibility of backyard beekeeping. The City Attorney in conjunction with the City Manager's office and Community Development, has prepared updates to the code and research into the feasibility of beekeeping. Since backyard beekeeping would be included within the animal code, these topics are being presented together.

#### **Breed-Specific Legislation Background**

The most significant change to the animal code pertains to Commerce City's pit bull ban. Sec. 4-2011 of the code currently prohibits the ownership of pit bulls in most circumstances. Ordinance 1593 was passed in 2005 in the wake of several high-profile pit bull attacks in the Metro Area and only allows pit bulls in the city if they are being transported through town, owned prior to the ordinance passing, part of a sanctioned dog show approved by the police, or possessed by a city employee as dictated by their duties. Any animals grandfathered in are regulated and must be vaccinated and microchipped, muzzled and leashed when in public, secured in an enclosure when at home, and the owner must carry \$100,000 in liability insurance. Prior to Ordinance 1593, pit bulls were allowed in the city but had to be securely fenced in the yard per Ordinance 817 passed in 1987. Going back to 2012, the municipal court has prosecuted an average of around 4 violations of Sec. 4-2011 every year.

It is important to note that there is no singular breed called the 'pit bull.' Pit bull is a generic term applied to breeds possessing similar physical characteristics. The municipal code defines pit bull as any dog displaying a majority of characteristics of the American pit bull terrier, American Staffordshire terrier, or Staffordshire bull terrier.

In the late 1980s and early 1990s, national reporting on a pit bull attacks generated public backlash and led to many cities passing some form of BSL. As of 2016, approximately 945 communities had some form of BSL on the books. In recent years, BSL has lost favor, and roughly 333 communities have repealed their BSL. While Colorado has passed legislation at the state level that pre-empts local BSL, home rule prevents this pre-emption from applying to Commerce City and other home-rule municipalities. Four other communities in Colorado have some form of BSL in effect - Aurora, Denver, Lone Tree, and Louisville.

#### **Breed-Specific Legislation Pros and Cons**

BSL is a controversial topic. While designed to protect the public, it also draws criticism for infringing on personal freedoms and punishing responsible owners and animals. There are several legitimate

arguments for and against BSL summarized here. Information for this communication comes from the academic studies that are enclosed in the packet.

BSL is ineffective and overreaching. It is a cumbersome and heavy-handed way to address a real problem. BSL unfairly targets responsible owners and animals, drawing no distinction between them and the minority of owners and animals that are dangerous. Behavioral studies show that pit bulls have the same temperament as golden retrievers, one of the most popular family dogs. Additionally, BSL can force people who own pit bulls to hide them rather than move or have the animal killed. This isolation can exacerbate health and behavioral problems, making the animals more dangerous than they would otherwise be. Other measures, such as the vicious animal ordinance, provide the same protections to residents without unfairly discriminating against particular breeds.

BSL is an effective way to keep the community safe. It allows for proactive enforcement of animals that have a proven record of endangering residents and their pets. Studies show that injuries inflicted by pit bull during attacks are more severe than those inflicted by other breeds; even if a pit bull is only as likely to attack as a golden retriever, its attacks are much more dangerous. Additionally, studies demonstrate that BSL is effective at reducing the rate of dog-bite induced hospitalization. BSL is a public safety measure that contributes to the welfare of residents.

### **Breed-Specific Legislation Proposed Updates**

The proposed update to the animal code would remove Commerce City's BSL. The revised code would instead rely on an enhanced vicious animals section to protect residents. The update would create a two-tiered system for animals: dangerous and vicious. A dangerous animal is one that has attacked a person or pet causing injury, or that has threatened a person or pet when not on its own property or otherwise displays a tendency to attack or threaten when not provoked. A vicious animal is one that has attacked a person causing death or serious injury, or on two occasions has attacked a person causing injury, or is trained or kept as a fighting dog.

Any animal deemed dangerous would face strict regulations, including registration, a \$100,000 liability insurance policy, enclosure requirements, visual identification as a dangerous animal, and notification of escape, attacks, death, or sale. There would be a limit of one dangerous animal in any house. Animals found to be vicious would be subject to hearing and could face immediate removal from the city, impoundment pending a trial, or destruction.

The updated animal code includes a delineated process for impoundment and hearings pertaining to dangerous and vicious animals. The city may impound an animal if it is found at-large, has acted in a vicious or dangerous way, or is mistreated, abandoned, or neglected. Within 24 hours of initial impoundment, animal control must then submit a formal request for impoundment along with an affidavit to the municipal court, as well as notify the owner. The owner may petition for a hearing on the impoundment within 7 days, unless the animal was found at-large. The animal is released to the owner unless the city provides a preponderance of evidence to show that the animal is vicious, kept in violation of the law, abused, neglected, or is dangerous and that the owner cannot adequately care for it.

Animal control may request a disposition hearing to determine if the animal is dangerous or vicious. The city must show a preponderance of evidence that the animal is dangerous or vicious, or that destruction is warranted because the animal is likely to cause future injuries. The owner must then follow the appropriate regulations for dangerous or vicious animals.

## **Backyard Beekeeping**

Backyard beekeeping is a growing hobby in the United States. There are an estimated 120,000 beekeepers in the US, most of whom are hobbyists. Bees play a vital role in the community as they improve gardens and crops, providing more fresh, local food; approximately 80% of American crops are dependent on honeybees.

Several Front Range communities allow and regulate backyard beekeeping (Arvada, Aurora, Brighton, Denver, Littleton, Thornton, Westminster). Their ordinances, along with a list of best demonstrated practices from the Colorado State Beekeepers Association, provide insights for effective regulation of beekeeping and balancing the numerous benefits with community safety. Most ordinances outline regulations for the species, number and location of hives including barriers and setbacks, educational requirements, permits and fees, and more.

There are some hurdles to allowing backyard beekeeping in Commerce City. Most of the metro districts and HOAs in the North Range prohibit bees under their livestock and nuisance animal restrictions. Additionally, potential setback requirements for hives or flyway barriers (fences that force bees to gain altitude so as to fly over neighboring yards rather than through) would significantly limit the number of lots with the physical dimensions necessary for beekeeping.

Many communities that allow backyard beekeeping have some form of permitting process, although others do not. The shift away from permits is a recent trend. Permits allow staff right of entry to inspect the site and ensure compliance, but permit review does take staff time and may not be an effective prioritization of staff time and resources. In many cities, these permits remain in effect as long as the permittee lives at the listed address; staff tends not to carry out inspections as they lack the requisite training and PPE. Staff would only carry out an inspection if there were an obvious violation or a complaint, and may use a professional beekeeper for the inspection. If Council wants Staff to prepare an ordinance allowing backyard beekeeping for review, there are other considerations to address, such as permitting and inspections.

**Staff Responsible (Department Head):** Deputy City Manager Troy Smith

**Staff Member Presenting:** Management Analyst John Bourjaily