



Legislation Text

File #: Ord 2312, **Version:** 1

AN ORDINANCE AMENDING CHAPTER 4 OF THE COMMERCE CITY REVISED MUNICIPAL CODE, COMMONLY KNOWN AS THE ANIMAL CODE TO REMOVE BREED SPECIFIC REGULATIONS AND ADDRESS DANGEROUS AND VICIOUS ANIMALS, TO AMEND ANIMAL DISTURBANCE REGULATIONS, TO AMEND PROCEDURES RELATING TO ANIMAL IMPOUNDMENT AND DISPOSITION, AND TO AMEND OTHER PROVISIONS RELATING TO THE REGULATION OF ANIMALS IN THE CITY OF COMMERCE CITY

The proposed ordinance addresses a Council request to replace the City's existing pit bull ban and address dangerous and vicious animals without reference to breed. The proposed ordinance also makes a number of changes to modernize the City's Animal Code. City Council reviewed the proposed ordinance during a study session on August 12, 2019, and regular meetings on January 6 and September 21, 2020.

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. Colorado law prohibits local BSL for non-home-rule cities and towns. ;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 identified below in the packet.

Cons: 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.

Pros: 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 and dangerous animals section to protect residents (4-2008-2011); . 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.

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. Owners may seek a hearing to remove the designation after a period of time.

Other Updates

The proposed ordinance also:

- Updates definitions (4-1001) and other language.
- Updates the impoundment and disposition process to match modern practices and conform to the vicious and dangerous animal designation concept (Article IV).
- Clarifies crimes relating to animal attacks (4-2010).
- Revises regulations relating to disturbances caused by animals to increase enforcement

options and clarify standards (4-2004).

- Limits the maximum number of household pets to cats and dogs (4-2003).

Additional resources:

1. Bini, JK et al. *Mortality, mauling, and maiming by vicious dogs*. 2011. Pubmed.gov. Retrieved 17 May 2019. <https://www.ncbi.nlm.nih.gov/pubmed/21475022>.
2. Ott, Stefanie et al. *Is there a difference? Comparison of golden retrievers and dogs affected by breed-specific legislation regarding aggressive behavior*. Journal of Veterinary Behavior. 3.3 (2008): 134-140.
3. Trembath, Felicia E. *Evaluating the prevalence and effectiveness of breed-specific legislation*. 2016. Purdue University, PhD dissertation.

Staff Responsible (Department Head): John Bourjaily, Management Analyst; Robert Sheesley, City Attorney

Staff Member Presenting: Robert Sheesley, City Attorney

Financial Impact: N/A

Funding Source: N/A

Staff Recommendation: Approval.

Suggested Motion: I move to introduce and approve Ordinance 2312 on first reading by Council as seated.