

ORDINANCE NO. 2018-029

AN ORDINANCE repealing City of Yakima Municipal Code Chapter 6.18 relating to Pit Bull Dogs

BE IT ORDAINED BY THE CITY OF YAKIMA:

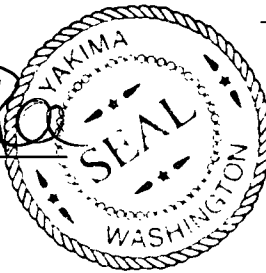
Section 1. Chapter 6.18 of the City of Yakima Municipal Code relating to Pit Bull Dogs is hereby repealed in its entirety.

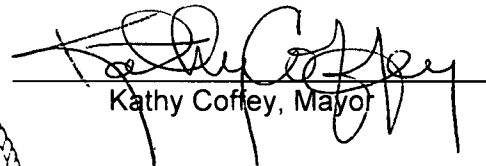
Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 21st day of August, 2018.

ATTEST:


Sonya Claar Tee, City Clerk




Kathy Coffey, Mayor

Publication Date: August 24, 2018

Effective Date: September 23, 2018



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 12.
For Meeting of: August 21, 2018

ITEM TITLE: Ordinance repealing Municipal Code Chapter 6.18 relating to Pit Bull Dogs

SUBMITTED BY: Ryan Bleek, Assistant City Attorney

SUMMARY EXPLANATION:

On June 19, 2018, the City Council sent the City's Pit Bull ordinance to the Public Safety Committee for a recommendation to 1) retain the ordinance in its present form, 2) revise the ordinance as deemed necessary or 3) repeal the ordinance. Following the Public Safety Committee discussion of the Pit Bull ordinance during an Executive Session on June 28, 2018, the Committee decided in open session to recommend a revised ordinance be considered by the full City Council during the July 17 City Council meeting. At the July 17, 2018 City Council meeting, following Council discussion and recognition the City has a revised and more robust Dangerous Dog Ordinance, the Council voted unanimously to direct staff to provide an ordinance repealing the Pit Bull ordinance in its entirety for their consideration during the August 6, 2018 City Council meeting.

At the August 6, 2018, City Council meeting, this item was postponed to the August 21, 2018, Council Business meeting. The attached ordinance represents the repeal of the City of Yakima Pit Bull ordinance, in its entirety.

ITEM BUDGETED: NA

STRATEGIC PRIORITY: Public Safety

**APPROVED FOR
SUBMITTAL:**

 City Manager

STAFF RECOMMENDATION:

Staff seeks Council direction.

ORDINANCE NO. 2018-_____

AN ORDINANCE repealing City of Yakima Municipal Code Chapter 6.18 relating to Pit Bull Dogs

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Chapter 6.18 of the City of Yakima Municipal Code relating to Pit Bull Dogs is hereby repealed in its entirety:

**Chapter 6.18
PIT BULL DOGS**

Sections:

~~6.18.010—Definitions.~~

~~6.18.020—Keeping of pit bull dogs prohibited.~~

~~6.18.025—Impounding pit bull dogs.~~

~~6.18.026—Impounding potentially dangerous pit bull dogs and pit bull dogs at large.~~

~~**6.18.010 Definitions.**~~

~~“Pit bull dog” means any pit bull terrier. “Pit bull terrier” means any American pit bull terrier, Staffordshire bull terrier, American bulldog or American Staffordshire terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American pit bull terrier, Staffordshire bull terrier, American bulldog or American Staffordshire terrier so as to be identifiable as partially of the breed American pit bull terrier, Staffordshire bull terrier, American bulldog or American Staffordshire terrier. (Ord. 2004-32 § 1, 2004: Ord. 2001-32 § 1, 2001: Ord. 98-27 § 1, 1998: Ord. 3034 § 1 (part), 1987).~~

~~**6.18.020 Keeping of pit bull dogs prohibited.**~~

~~A.——It is unlawful to keep, or harbor, own or in any way possess a pit bull dog within the city of Yakima. Violation of this section is a gross misdemeanor. The minimum fine for a violation of this section shall be two hundred fifty dollars for the first offense and five hundred dollars for a second or subsequent offense, which fine shall not be suspended or deferred. For purposes of this section, proof of a prior violation shall not require proof that the same pit bull dog is involved. Each day of violation shall be a separate offense.~~

~~B.——The prohibition on possessing pit bull dogs within the city shall not apply to pit bull dogs which: (1) do not reside in the city of Yakima, (2) are brought into the city for the purposes of participating in a dog show or canine sporting event for which the owner is able to show proof of entry, (3) do not remain in the city of Yakima for a period exceeding ninety-six consecutive hours, or (4) otherwise meet the specific conditions of an exception to this prohibition in accord with subsection C of this section.~~

~~C.——The prohibition on possessing pit bull dogs within the city shall not apply to the extent applicable in the specific exceptions set forth below. The definitions in subsection (C)(I) of this section shall apply for purposes of subsections (C)(II) through (V) of this section.~~

I.—Definitions.

(a) ~~“Immediate family,” for purposes of this chapter, includes the owner’s spouse, child, parent or sibling.~~

(b) ~~“Handler,” for purposes of this chapter, means an individual with a disability who is utilizing a service dog, as that term is defined in this chapter, to do work or perform tasks directly related to the individual’s disability. If over the age of eighteen, the handler must also be the owner of the service dog. If under the age of eighteen, the handler’s legal guardian must be the owner of the service dog.~~

(c) ~~“Muzzle,” for purposes of this chapter, shall mean a restraining device made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a snout/mouth/head, prevents the dog from biting but allows room for the dog to breathe and pant. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.~~

(d) ~~“Pit bull service animal,” for purposes of this chapter, is defined as any dog that meets the definition of “pit bull dog” provided in YMC 6.18.010, and which also qualifies as a service animal in accord with the Animals of America Service and Therapy Animals requirements.~~

(e) ~~“Secure temporary enclosure,” for purposes of this chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a “door” for removal of the pit bull. Such enclosure must be of such material and secured with a keyed or combination lock so that the pit bull cannot exit the enclosure on its own.~~

(f) ~~“Secure pen or enclosure,” for the purposes of this chapter, shall mean a six-sided structure designed to prevent entry of a child or escape of a pit bull. Such pen or structure must have minimum dimensions of five feet by ten feet per animal housed within and must have secure chain-link sides, a secured top and a secure bottom. The enclosure must provide protection from the elements for the dog. All structures erected to house a pit bull must comply with all zoning and building ordinances and regulations of the city and shall be kept in a clean and sanitary condition. The gate of the pen or enclosure shall be secured with a keyed or combination lock.~~

(g) ~~DNA Testing. DNA (deoxyribonucleic acid) is the genetic blueprint that contains most of the genetic instructions for every canine’s body makeup (height, weight, size, etc.). “DNA testing” means a genetic analysis to identify key single-nucleotide polymorphisms marker locations (genetic markers) that may detect the breed, type and variety of a dog and may show the ancestral breed composition of a particular dog.~~

(h) ~~DNA Test Evidence. An owner may, at the owner’s expense, submit a DNA sample of a dog to a veterinarian or other professional to test for the genetic history of a dog. Such test should look for the genetic markers for the following breeds: American pit bull terrier, American Staffordshire terrier, and Staffordshire bull terrier.~~

~~In order to be considered a pit bull, the DNA testing must demonstrate a genetic blueprint in excess of fifty percent of pit bull. The DNA test results shall constitute evidence which the court may consider in establishing that a dog is other than a breed banned by this section. DNA testing results shall override any subjective evidence including observational findings to the contrary. If an owner indicates to a judge that a DNA test will be performed, the court may issue appropriate orders as to the release of the dog with any additional conditions that the court believes will minimize any danger to the community during the pendency of the testing and obtaining the results.~~

~~II.—Exceptions. The pit bull prohibition stated in subsection A of this section shall not apply to pit bull service animals and pit bull dogs within the city under the following circumstances. The failure of a person in possession of a pit bull dog within the city under the following exceptions to comply and remain in compliance with all of the following terms and conditions of this exception may subject the pit bull to immediate impoundment and disposition.~~

~~(a)—An owner of any pit bull used as a service animal within the city of Yakima shall apply for a pit bull service animal license from the city licensing department. Pit bull service animal licenses shall be subject to approval by the city code administration manager and to all provisions of this exception. The owner of a qualifying pit bull who has applied for and received a pit bull service animal license in accord with the terms of this section and who maintains the pit bull service animal at all times in compliance with the pit bull service animal license requirements of subsection (C)(III) of this section may keep a pit bull service animal within the city.~~

~~(b)—The animal control division may temporarily transport and harbor any pit bull for purposes of enforcing the provisions of this chapter.~~

~~(c)—Any veterinarian while treating or grooming a pit bull, or holding such pit bull after treatment until claimed by the owner or released to an animal care officer.~~

~~(d)—The owner/handler of a pit bull service animal who has applied for and received a pit bull service animal license in accordance with subsection (C)(III) of this section, and who maintains the pit bull at all times in compliance with the pit bull service animal license requirements of subsection (C)(III) of this section, together with all other applicable requirements of this chapter, may keep a pit bull service animal within the city. If a city animal control officer or other authorized city code enforcement or law enforcement officer makes contact with an owner/handler of a pit bull not licensed pursuant to this section and the owner/handler asserts that his or her dog is a service animal, the owner/handler shall be informed of this section and instructed to obtain a pit bull license pursuant to subsection (C)(III) of this section within seventy-two hours of the initial contact. Failure to obtain a pit bull license within the permitted period of time after receiving said advisement shall result in impoundment of the dog pursuant to subsection (C)(IV) of this section.~~

~~(e)—A nonresident owner/handler may temporarily transport into and hold in the city a pit bull that is the owner/handler's service animal for a period not exceeding two weeks. During such temporary transport or holding, the owner/handler shall keep the pit bull muzzled and securely leashed with a leash sufficient to control the dog, no longer than four feet in length and held by the owner/handler who requires the~~

~~use of the service animal. In the event the handler, because of a disability, is not able to use a muzzle or leash no longer than four feet in length, or in the event the use of a muzzle or a leash no longer than four feet in length would interfere with the service animal's safe, effective performance of its service work or tasks, the service animal must be otherwise under the handler's absolute control at all times.~~

~~III.—License. The owner/handler of a pit bull service animal who has applied for and received a pit bull service animal license shall be allowed to keep said pit bull within the city. As a condition of issuance of a pit bull service animal license, the owner shall, at the time of application, comply with or otherwise provide sufficient evidence to demonstrate to the city code administration manager that the owner is in compliance with all of the following regulations:~~

~~(a)—The owner of the pit bull service animal shall provide proof of a current rabies vaccination.~~

~~(b)—The owner of the pit bull service animal shall maintain uninterrupted license currency. The pit bull service animal license is not transferable or renewable except by the licensee or by a member of the immediate family of the licensee. A pit bull service animal license tag shall be issued to the owner at the time the license is issued. The license tag shall be attached to the pit bull service animal by means of a collar or harness which must be worn by the animal at all times. The license tag shall remain clearly visible and shall not be attached to any pit bull other than the pit bull service animal for which the license was issued. A pit bull service animal license shall only be issued by the licensing department if all provisions of subsections (C)(III)(c), (d) and (e) have been met.~~

~~(c)—The owner must be at least eighteen years of age.~~

~~(d)—The owner shall, at the owner's expense, have the pit bull service animal spayed or neutered and shall present to the city code administration manager or his designee documentary proof from a licensed veterinarian that this sterilization has been performed.~~

~~(e)—The owner shall, at the owner's expense, have a microchip containing an identification number, as defined in YMC 6.20.010(13), implanted into the pit bull and shall provide proof of such registration to the animal control division and the licensing department. The licensing department shall maintain a file containing the registration numbers and names of the pit bull service animals and the names and addresses of the owners. The owner shall immediately notify the licensing department of any change of address.~~

~~(f)—Except as stated below and at all times when a pit bull service animal is at the owner's property, the owner shall keep the pit bull confined. When outdoors, all pit bull service animals shall be confined in a locked, secure enclosure, as defined in this section, or kept within the rear yard of the owner's property, said rear yard enclosed by a six-foot fence maintained in a manner to prevent the pit bull service animal from leaving the back yard without the owner's accompaniment. When away from the owner's property, the pit bull service animal shall be accompanied by its owner/handler or an adult at least eighteen years of age at all times.~~

~~(g) At all times when a pit bull service animal is away from the property of the owner, the owner shall keep the pit bull service animal muzzled and either in a secure temporary enclosure or securely leashed with a leash no longer than four feet in length held by someone eighteen years of age or older who is capable of effectively controlling the dog. Extension-style leashes may not be used. Leashes may not be attached to inanimate objects. In the event the handler, because of a disability, is not able to use a leash equal to or less than four feet in length, or in the event the use of a muzzle or a leash no longer than four feet in length would interfere with the service animal's safe, effective performance of work or tasks, the service animal must remain under the handler's complete control at all times when away from the owner's property, the manner of control to be fully described to the code enforcement and animal control officer at the time of licensing. This regulation and the means for controlling the pit bull may be modified for service animals by the code administration manager or designee as determined necessary and reasonable. Any such modification of the means of control set forth herein shall be memorialized in the licensing documentation upon issuance of said license.~~

~~(h) The owner shall not sell or otherwise transfer the pit bull service animal to any person residing within the city.~~

~~(i) The owner shall immediately notify the animal control division in the event that the pit bull is loose, stolen, at large, unconfined, has mauled, bitten, attacked, threatened, or in any way menaced another animal or human, or has died.~~

~~(j) No person applying for a pit bull service animal license shall be granted a breeder's permit for such pit bull service animal.~~

~~(k) Failure to comply with any of these conditions shall result in a revocation of the license, impoundment and disposition pursuant to subsection (C)(IV) of this section.~~

~~IV.—Impoundment. The animal control division is authorized to immediately impound any pit bull service animal found within the city limits which does not qualify for the exception stated within this section, subject to all of the procedures and processes set forth in YMC 6.18.025, 6.18.026 and 6.20.300 through 6.20.330. If the dog is found not to be a pit bull as a result of DNA testing, evidence obtained at the owner's option and sole expense, or if the dog is determined to be a service animal, the dog shall be released to the owner, subject to full compliance with every requirement of this chapter. Notwithstanding a finding that the dog is not a pit bull or a finding that the dog is a service animal, a dog may be impounded and the owner/handler may be held responsible for violations of this section or any other applicable state or local law.~~

~~V.—Penalty. Any person violating this section relating to exceptions to pit bull prohibitions within the city shall be punished by a civil infraction with a penalty of two hundred fifty dollars upon conviction, subject to the following specific penalties:~~

Code	Class	Penalty	Charge
6.18.020(C) (III)(f)	Misdemeanor	Standard	Confinement Required
6.18.020(C) (III)(h)	G. Misd.	Standard	Prohibition of Transfer
6.18.020(C) (III)(i)	G. Misd.	Standard	Notification Requirements

(Ord. 2014-013 § 1, 2014: Ord. 2014-008 § 1, 2014: Ord. 2001-32 § 2, 2001: Ord. 3034 § 1 (part), 1987).

6.18.025 Impounding pit bull dogs.

A. — Whenever a pit bull dog is found within the city of Yakima, the owner shall be notified in writing of the prohibitions contained in this chapter and of the procedure required to redeem the animal. Such notice shall be served upon the owner or, if the owner is not present, upon any person of suitable age and discretion residing at owner's residence. Whenever a pit bull dog is found within the city of Yakima, the animal may be impounded pursuant to Chapter 6.20.

B. — If the pit bull dog is not immediately impounded pursuant to Chapter 6.20, the owner must permanently remove the pit bull dog from the city of Yakima within forty-eight hours of issuance of the notice required by this section. Failure to remove a pit bull dog within forty-eight hours of such notice shall result in the immediate impoundment of the animal. Whenever any pit bull dog is found within the city of Yakima and the owner has previously had the notice required by this section, the dog shall immediately be taken up and impounded by such officer charged with the enforcement of this chapter. Pit bull dogs impounded under this subsection may be redeemed or adopted pursuant to the provisions of YMC 6.20.320. (Ord. 2007-11 § 1, 2007: Ord. 2004-32 § 2, 2004: Ord. 2001-32 § 3, 2001: Ord. 98-27 § 2, 1998).

6.18.026 Impounding potentially dangerous pit bull dogs and pit bull dogs at large.

Notwithstanding the provisions of YMC 6.18.020(B) or 6.18.025, any pit bull dog found running at large in the city of Yakima which is not in the possession or control of its owner or owner's agent shall be immediately impounded by a Yakima animal control officer or Yakima police officer. Any pit bull dog which is a dangerous dog or potentially dangerous dog as those terms are defined in Chapter 6.20 of this code shall be handled according to Chapter 6.20. Such animal shall be redeemed, adopted or destroyed pursuant to the provisions of Chapter 6.20 of the Yakima Municipal Code. (Ord. 2007-11 § 2, 2007: Ord. 2001-32 § 5, 2001: Ord. 98-27 § 3, 1998).

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of August, 2018.

ATTEST:

Kathy Coffey, Mayor

Sonya Claar Tee, City Clerk

Publication Date: _____

Effective Date: _____

ORDINANCE NO. 2018-_____

AN ORDINANCE repealing City of Yakima Municipal Code Chapter 6.18 relating to Pit Bull Dogs

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Chapter 6.18 of the City of Yakima Municipal Code relating to Pit Bull Dogs is hereby repealed in its entirety.

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of August, 2018.

ATTEST:

Kathy Coffey, Mayor

Sonya Claar Tee, City Clerk

Publication Date:_____

Effective Date:_____

Pit Bull Ban Ordinance 8/21/2018

Kay Funk

I have some remarks, which I am going to give to the City Clerk because I would like to have them entered into the record in their entirety.

My preference on the Pit Bull Ordinance would have been an advisory vote of the people. This is an issue about individual and cultural values, and I think that advisory votes are useful for values-driven decisions.

I have some concern about the process by which this issue was managed. It was referred, by vote of the council, to the Public Safety Committee for a recommendation. The Public Safety Committee discussed and made a recommendation, which was then completely overlooked and subverted by bringing the repeal motion. Since we have had a lot of discussions about process through our committee structure, I want to express my opinion that this issue was poorly processed.

Certainly, there are many people who have strong feelings about pit bulls. Generally, I feel that the "scientific" arguments offered by the Humane Society are not persuasive as science. I believe that repealing the pitbull ban will likely cause more dog bites, and public safety is my main concern..

The American Veterinary Medical Association says,

"It is no exaggeration to say that dog bites pose a significant health risk to our communities and society.... Any dog can bite, regardless of its breed....Breed-specific bans are a simplistic answer to a far more complex social problem..."¹

We have to recognize that codes and regulations cannot solve "*far more complex social problem[s]*", so we have to work with what we can. Our amendment to the Dangerous Dog Ordinance will somewhat improve our ability to regulate, but will not eliminate the public safety problem.

I am going to make a motion to postpone consideration of repeal of the Pit Bull Ordinance until November, to give us time to reconsider the Dangerous Dog Ordinance, within the window in which the Humane Society Shelter will still be available. In particular, I would like to reconsider a requirement for microchipping all dogs resident in the city.

The Humane Society is forcing our hand on repeal of the Pit Bull Ordinance, because the city cannot afford to create and staff a new animal shelter or animal control staff. I am willing to accept that when the Humane Society Shelter is gone, we will no longer be able to have a pit bull ban.

¹ *Why Breed-specific Legislation Is not the Answer*. American Veterinary Medical Association. 2018.
<https://www.avma.org/public/Pages/Why-Breed-Specific-Legislation-is-not-the-Answer.aspx>