

**RECEPTION  
City of Aztec  
March 11, 2014  
201 W. Chaco, City Hall  
5:00 P.M.**

**5:00 P.M.**

**Reception for Outgoing and Incoming Commissioners**

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**ATTENTION PERSONS WITH DISABILITIES:** The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

**Note:** A final agenda will be posted 24 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

**A G E N D A**  
**City of Aztec**  
**CITY COMMISSION MEETING**  
**March 11, 2014**  
**201 W. Chaco, City Hall**  
**6:00 p.m.**

**I. CALL TO ORDER**

**II. INVOCATION**

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. ELECTION RESULTS OF MARCH 4, 2014**

**VI. COMMISSIONERS OATH OF OFFICE**

- A. The Honorable Judge Karen Townsend will Administer the Oath of Office for New Commissioners

**VII. COMMISSION ORGANIZATION MEETING**

- A. Elections of Mayor and Mayor Pro-Tem.....Commissioners
- B. Appointments of Commissioners to Boards/Committees.....Commissioners

**VIII. AGENDA APPROVAL**

**IX. CITIZEN RECOGNITION**

**X. EMPLOYEE RECOGNITION**

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**XI. CONSENT AGENDA**

- A. Commission Meeting Minutes, February 25, 2014
- B. Travel
- C. 2012 GO Bond Agreement
- D. Law Enforcement Protection Fund Grant
- E. Russell Planning & Engineering Contract Amendment #1

*Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "Items from Consent Agenda"*

**XII. ITEMS FROM CONSENT AGENDA**

**XIII. CITIZENS INPUT (3 Minutes Maximum)**

*(Citizens who wish to speak will sign up prior to the meeting – this section is for items not otherwise listed on the agenda)*

**XIV. BUSINESS ITEMS**

- A. Final Adoption of Ordinance 2014-435 Amending Article I, Section 17.1 of Chapter 17 - Personnel
- B. Final Adoption of Ordinance 2014-436 Amending Chapter 5 Animals
- C. Final Adoption of Ordinance 2014-437 Amending Chapter 16, Article V. Animal Fees
- D. Final Adoption of Ordinance 2014-438 Amending Chapter 1, Section 12 Fine Schedule for Section 1-12-4 Animals
- E. Mary Shepherd 1 WS 47 Abandonment

**XV. LAND USE HEARING**

- A. Special Use Request For 809 Pioneer Ave.

**XVI. CITY MANAGER/COMMISSIONERS/ATTORNEY REPORTS**

**XVII. DEPARTMENT REPORTS**

*(When this item is announced, all Department Heads who wish to give a report will move to the podium)*

**XVIII. ADJOURNMENT**

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# Staff Summary Report

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<b>MEETING DATE:</b>	March 11, 2014
<b>AGENDA ITEM:</b>	<b>V. ELECTION RESULTS OF MARCH 6, 2012</b>
<b>AGENDA TITLE:</b>	Report of Regular Municipal Election Official Results of March 4, 2014

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<b>ACTION REQUESTED BY:</b>	Karla Sayler, City Clerk
<b>ACTION REQUESTED:</b>	No Action Required
<b>SUMMARY BY:</b>	Karla Sayler

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## PROJECT DESCRIPTION / FACTS

- State Statute 3-8-53 states that no later than noon on the third day after the election, the results of the election shall be canvassed.
- The results of the Regular Municipal Election held on March 4, 2014 were canvassed on March 6, 2012 with canvassing board consisting of The Honorable Judge Karen Townsend and Karla Sayler, City Clerk.
- The support documents for the official results will be handed to Commission at the Commission Meeting on March 11, 2014.

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<b>SUPPORT DOCUMENTS:</b>	1) Certification of Election 2) Canvass Return Sheet
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**DEPARTMENT'S RECOMMENDED MOTION:** None required.

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CERTIFICATE OF ELECTION  
City of Aztec 2014 Regular Election  
Page 2 of 2

I further certify that the results of the Canvass of Returns of such Regular Municipal Election held in the City of Aztec for three Commissioners to serve a four year term on the City Commission are as set forth in the foregoing abstract of said election returns as made to me, as aforesaid, and I do hereby declare and certify that at said election the following named persons were duly elected to the respective offices set opposite their respective names, to wit:

\*\*\*\*\*

***Canvassing Board Signatures:***

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District Judge, Karen Townsend / Date

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Karla H. Sayler, Municipal Clerk,/ Date

# CANVASS

RETURN SHEET  
FOR THE CITY OF AZTEC  
REGULAR MUNICIPAL ELECTION OF MARCH 4, 2014

Aztec City Hall

Votes cast on Machine (Election Day) (228955)	181
Votes cast on Absentee Machine (in person) (229141)	69
Votes cast on Machine Absentee (through mail) (229272)	5
TOTAL NUMBER OF VOTES CAST:	<u>255</u>

We the undersigned, certify the above and foregoing is a correct canvass of returns of the election held at the time and place indicated above.

Witness our signatures this 4<sup>th</sup> day of **March, 2014**:

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Judge Karen Townsend / Date

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Karla H. Sayler, Municipal Clerk / Date

**RETURN SHEET  
STATEMENT OF CANVASS OF VOTING MACHINES  
REGULAR ELECTION  
MARCH 4, 2014**

**CANDIDATES FOR CITY COMMISSIONER  
District #2**

<b>Votes Cast on:</b>	<b>Sally Ann Burbridge</b>	<b>Joe A. Hubbard</b>
Machine No. 228955 (Election Day)	117	63
Machine No. 229141 (Absentee In Person)	52	15
Machine No. 229272 (Absentee by Mail)	1	4
<b>TOTAL</b>	<b>170</b>	<b>82</b>

**CANDIDATES FOR CITY COMMISSIONER  
District #4**

<b>Votes Cast on:</b>	<b>Katee McClure</b>
Machine No. 228955 ( Election Day)	145
Machine No. 229141 (Absentee In Person)	69
Machine No. 229272 (Absentee by Mail)	3
<b>TOTAL</b>	<b>217</b>

Return Sheet  
Statement of Canvass of Voting Machines  
Regular Election  
March 4, 2014

**CANDIDATES FOR CITY COMMISSIONER**  
**District #5**

<b>Votes Cast on:</b>	<b>Sheri L. Rogers</b>
Machine No. 228955 ( Election Day)	157
Machine No. 229141 (Absentee In Person)	69
Machine No. 229272 (Absentee by Mail)	3
<b>TOTAL</b>	<b>229</b>

***Canvassing Board Members:***

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District Judge, Karen Townsend / Date

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Karla H. Sayler, Municipal Clerk / Date

# Staff Summary Report

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**MEETING DATE:** March 11, 2014

**AGENDA ITEM:** VI. OATH OF OFFICE FOR NEWLY ELECTED OFFICIALS (A)

**AGENDA TITLE:** Oath of Office for Newly Elected Officials

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**ACTION REQUESTED BY:** Commission and Staff

**ACTION REQUESTED:** No action required by the Commission. Oath will be given to each Newly Elected Official

**SUMMARY BY:** Karla Sayler, City Clerk

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## PROJECT DESCRIPTION / FACTS

- As written in State Statute 3-8-33, An Elected Official shall remain in office until the official's successor has been given the "Oath of Office".
- The Honorable Judge Karen Townsend will Administer the Oath of Office for Commissioner Sally Burbridge, Commissioner Katee McClure, and Commissioner Sheri Rogers.

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**SUPPORT DOCUMENTS:** Oath of Office Documentation will be provided at the meeting

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**DEPARTMENT'S RECOMMENDED MOTION:** No action required by the Commission. Oath will be given to each Newly Elected Official.

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# Staff Summary Report

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**MEETING DATE:** March 11, 2014

**AGENDA ITEM:** **VII. COMMISSION ORGANIZATIONAL MEETING (A)**

**AGENDA TITLE:** Election of Mayor and Election of Mayor Pro-Tem

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**ACTION REQUESTED BY:** Commission and Staff

**ACTION REQUESTED:** Election of Mayor and Election of Mayor Pro-Tem

**SUMMARY BY:** Karla Sayler, City Clerk

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## PROJECT DESCRIPTION / FACTS

- As required in State Statute 3-8-33-H the newly elected officials of the governing body who have taken office, the elected officials of the governing body whose terms have not expired and the elected officials of the governing body whose successors have not taken office shall meet not earlier than the sixth day after the election or later than the twenty-first day after the election for an organizational meeting. Such a meeting may be a special meeting or a regular meeting of the governing body.
- During this meeting the Commission will nominate and elect a Mayor and Mayor Pro-Tem

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**SUPPORT DOCUMENTS:** None

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve and Second to Elect a Mayor and Mayor Pro-Tem

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# Staff Summary Report

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**MEETING DATE:** March 11, 2014

**AGENDA ITEM:** **VII. ORGANIZATIONAL MEETING (B)**

**AGENDA TITLE:** Appointments of Commissioners to Boards/Committees

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**ACTION REQUESTED BY:** Commission and Staff

**ACTION REQUESTED:** Appointment of Commissioners to Boards/Committees, **No Motion Necessary**

**SUMMARY BY:** Karla Sayler, City Clerk

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## PROJECT DESCRIPTION / FACTS

- During this meeting the Commission will discuss and determine appointments to various Boards.
- Please review attached lists

Although neither the San Juan Water Commission nor Metropolitan planning organization are Boards developed by the Aztec City Commission a commissioner is appointed to these boards.

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**SUPPORT DOCUMENTS:** Various Board/Committee Lists

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**DEPARTMENT'S RECOMMENDED MOTION:** No Motion Necessary

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# LODGERS' TAX ADVISORY BOARD

(Revised March, 2014)



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**Meetings Held 3rd Monday of the first month of every Quarter at 6:00 pm**

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**Chairman  
Member**  
07/2003

**Russell Allen**

**Commission  
Representative**

**Sherri Sipe**  
Commissioner

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**Vice Chairman  
Member**  
04/04/2006

**Michael Mehta**  
Enchantment Lodge

**City  
Representatives**

**Joshua Ray**  
City Manager

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**Member**

VACANT

**City  
Representatives**

**Sherlynn Schmidt**  
City Mgr's Admin. Assistant

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**Member  
1**

VACANT

**City  
Representatives**

**Kathy Lamb**  
Finance Director

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**Member  
10/2011**

**Larry Turk**  
Aztec Ruins National  
Monument

**City  
Representatives**

**Kris Farmer**  
Finance

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**Chamber of  
Commerce  
Representative**

VACANT

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# LIBRARY ADVISORY BOARD

(Revised March 2014)



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**Meetings Held 1st Wednesday of Odd Numbered Months  
(January, March, May, July, September, November)  
at 5:30 P.M., at the Library**

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Position #1 - President 03-2012 to 12-2015	Charles Combs	May hold one more term.
Position #2 – Vice-President 01-2009 to 11-2013	Helen Root	May hold one more term.
Position #3 - Secretary 1-2012 to 12-2014	Sherry Magee	May not hold one more term.
Position #4 - Member 02-2014 to 01-2015	Lynne Spence	May hold one more term.
Position #5 - Member 05-2013 to 12-2014	Ellen Jensen	May hold one more term.
Library Director	Sabrina Hood	
Commission Representative	Roberta Locke	

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Regular meetings are on the first Wednesday of each odd numbered month, normally at 5:30 pm. Location as appropriate, but normally at the new library meeting room, or staff meeting room. Reminder notes/calls are sent out on a Saturday/Sunday prior to a meeting. Reminder notes/calls are sent out on a Saturday/Sunday prior to a meeting. A term is four years; after two consecutive four year terms, it is required that two years elapse prior to taking office on the Board again.



# ECONOMIC DEVELOPMENT ADVISORY BOARD

(Revised March 6, 2014)



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Meetings held on the 3<sup>rd</sup> Thursday of every month at 8:00 a.m. at Aztec City  
Commission Chambers, 201 W. Chaco St.

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**Chairman**

**John Faverino**  
3 E Energy Services

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**Member -  
Financial Community**

**Vivian Giles**  
Citizens Bank

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**Member -  
Aztec Chamber of Commerce**

**Amanda Hawks**  
Aztec Floral Design & Gifts

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**Member -  
Four Corners Economic  
Development**

**Christa Romme'**  
4CED – Four Corners Economic Development

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**Member - At Large**

**Kim Preston**

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**Vice-Chairman**

**Joshua Ray**  
City Manager

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**Commission Representative**

**Mayor Sally Burbridge**  
City of Aztec  
Commissioner

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# AIRPORT ADVISORY BOARD

(Revised March, 2014)



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**Meetings Held 1st Monday of the Last Month of Each Quarter at 6:00 pm  
Aztec Commission Room, 201 W. Chaco**

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<b>Chair</b> (March 2014)	<b>Doug Beery</b>
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<b>Vice Chair</b> (March 2009)	<b>Bob Holgate</b>
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<b>Member</b> (March 2015)	<b>Kevin Simpson</b>
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<b>Member</b> (March 2013)	<b>Kevin Neville</b>
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<b>Member</b> (March 2012)	<b>Pete Nadon</b>
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**D & M Representative**

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<b>Commission Representative</b> (March 2014)	<b>Sherri A. Sipe</b>
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<b>City Representative</b> (March 2012)	<b>Angela Watkins (coordinator)</b>
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CITY OF AZTEC  
COMMISSION MEETING MINUTES  
FEBRUARY 25, 2014

**I. CALL TO ORDER**

Mayor Burbridge called the Meeting to order at 6:02 p.m. at the Aztec City Commission Room, City Hall, 201 W. Chaco, Aztec, NM

**II. INVOCATION**

The Invocation was led by Commissioner Current

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Senior Center Director, Cindy Iacovetto

**IV. ROLL CALL**

Members Present: Mayor Sally Burbridge; Commissioner Roberta Locke; Commissioner Sherri Sipe; Commissioner Gene Current

Members Absent:

Others Present: City Manager, Joshua Ray; City Attorney Larry Thrower; Administrative Assistant, Sherlynn Morgan; Project Manager, Edward Kotyk (see attendance sheet)

**V. AGENDA APPROVAL**

MOVED by Commissioner Current, SECONDED by Commissioner Sipe to Approve the Agenda

**VI. PRESENTATION**

A. Historical Society Annual Report

President of the San Juan Historical Society, Angela Watkins presented the Annual Report to Commission, she gave some history about the Historical Society and stated that they store old newspapers and tax documents from San Juan County government archives. She mentioned that in 2013 the Historical Society had 312 hours of operation. They put in 723.75 volunteer hours for 2013.

Angela mentioned that there were 171 visitors to the San Juan County Historical Society for 2013 and almost that many research requests. She stated that Mary Waybourn's book Crimes of San Juan County is their largest selling book since they started selling books. She stated that future training is scheduled regarding Policy, Procedures, and Safety so that they can offer more hours to the public. Angela mentioned they have created a Facebook page and no longer have of a dead webpage. She mentioned that their highlight for the year was the rights to publish the following books: Cedar Hills History by Mary Mckee, and It's About Time by Molly Shriver. She mentioned that they now house the Aztec Cemetery records and legers. She reviewed the plan for 2014 which included expanding book sale locations and to continue to produce more books about the history of San Juan County . Angela thanked City Staff for helping with the storefront clean up from the flood.

#### B. Aztec Museum Annual Report

President ,Vicky Ramakka introduced the Aztec Museum Board who were in attendance at the meeting. On behalf of the Aztec Museum Association Board of Directors, Michelle Lindsey thanked Commission for allowing them this opportunity to attend this Commission Meeting to present the accomplishments of the Aztec Museum in 2013. Michelle presented these accomplishments through a very informative PowerPoint slideshow. She mentioned that the museum had a very successful and also challenging year. She also mentioned that they completed several physical improvements to the building and rounds with improvements to the landscaping along Main Avenue sidewalks. Michelle stated that one of the community events the museum participated in was Aztec Ruins Earth Day. She stated that one of the major accomplishments in 2013 was an 11 minute video, produced by Aztec Media called "Gifts of the San Juan Basin". She stated that on Founders Day Aztec's Old Soreheads were revealed. Another accomplishment the museum had this year was a total of 1585 visitors from 31 different states and 8 foreign countries. She stated that the Museum Board wanted to extend their gratitude to the City of Aztec and their employees for that helping with the maintenance and upkeep of the Museum. She stated that on behalf of the Aztec Museum Board they would like to thank Commission and retiring Commissioners Mayor Pro-Tem Crowley and Commissioner Current for supporting the museum and their service to the community. She mentioned the plans for 2014 which include restoring Pioneer Village grounds and replacing walkways.

Vicky mentioned that they will open later this year in early May. She mentioned that there will be a fundraiser, open to Aztec, Bloomfield, Cedar Hill, and Blanco areas, to help restore Pioneer Village grounds.

## **VII. PROCLAMATION**

### **A. National Athletic Training Month**

Mayor Burbridge read the Proclamation, naming March 2014, "National Athletic Training Month."

## **VIII. CITIZEN RECOGNITION**

Code Compliance Officer, Bob Carmen presented the Business of the Month award to Four Corners Community Bank and stated that Branch Manager, Tiffany Karlin was here this evening to accept the Business of the Month Certificate.

## **IX. EMPLOYEE RECOGNITION**

None

## **X. CONSENT AGENDA**

MOVED by Commissioner Sipe, SECONDED by Commissioner Current to Approve the Consent Agenda

All Voted Aye; Motion Passed Four to Zero

- A. Workshop Meeting Minutes, February 11, 2014
- B. Commission Meeting Minutes, February 11, 2014
- C. Travel
- D. Bid #201-395 Hartman Park Change Order #1
- E. Bid #201-401 Blanco St. Sewer Relocation
- F. Bid #201-402 Reservoir 3 Waterline Extension
- G. Appointment of EDAB Board Members
- H. Library Department Document Destruction

## **XI. ITEMS FROM CONSENT AGENDA**

None

## **XII. CITIZENS INPUT**

None

### **XIII. BUSINESS ITEMS**

#### **A. Final Adoption of Ordinance 2014-434 Amending Chapter 17, Section 17-3 Safety Policy**

Josh stated that no new comments have been received for this update.

MOVED by Commissioner Locke, SECONDED by Commissioner Current to Approve the Final Adoption of Ordinance 2014-434 Amending Chapter 17, Section 17-3 Safety Policy.

A Roll Call Was Taken; All Voted Aye; Motion Passed Four to Zero

#### **B. RFP 2014-228 Animas River Pump Diversion**

Josh stated that this item is a project that the City has been working on for quite some time and the Firm the City used before did not work out so the City changed plans and had a bid opening and had a negotiating agreement with Smith Engineering, who completed the Engineering Design for the project.

MOVED by Commissioner Sipe, SECONDED by Commissioner Current to Approve the Award of RFP 2014-228-Animas River Pump Diversion to Smith Engineering Co. in the amount of \$135,714+GRT and Authorize the City Manager to execute Professional Services Agreement.

All Voted Aye; Motion Passed Four to Zero

#### **C. City of Aztec Vision Plan**

Mayor Burbridge stated that Commission has a copy of the Vision Plan. Josh mentioned that Commission decided to go out to Citizens in the Community to develop what Citizens would like to see for our City moving forward. He stated that the Vision Plan is an important part to developing a City Comprehensive Plan and the process to develop the Vision Plan was that Mayor Burbridge organized information and went out to a number of citizens and groups throughout the community, gathered information in survey style and standard interaction.

MOVED by Commissioner Locke, SECONDED by Commissioner Sipe to approve the Resolution #2014-932 City of Aztec Vision Plan

All Voted Aye; Motion Passed Four to Zero

#### D. Purchase of Real Property

Josh stated that City Attorney, Larry Thrower has had communication with the property owner, and they had come to an agreement on the property and this will finalize all discussions and negotiations.

MOVED by Commissioner Current, SECONDED by Commissioner Sipe to approve the purchase of real property from Patricia Arnold in the amount of \$40,000 and to approve the mobile home purchase agreement

All Voted Aye; Motion Passed Four to Zero

#### E. Resolution 2014-930 Recognizing Aztec Community Events

Josh stated that the lists of events in the Staff Summary are the events that will be recognized by Resolution so that these items will not have to come back to Commission every time a request was presented.

MOVED by Commissioner Current, SECONDED by Commissioner Locke to approve resolution 2014-930 Recognizing Aztec Community Events

All Voted Ate; Motion Passed Four to Zero

### **XIV. LAND USE HEARINGS**

Commissioner Sipe opened the Land Use Hearing for a variance for Residential Dwelling on an A-1 Parcel Located on McCoy Ave. Commissioner Sipe stated that this hearing would be conducted under Procedures mandated by the New Mexico Court of Appeals in Battershell versus the City of Albuquerque, which were intended to protect the due process rights of our parties. Commissioner Sipe subsequently identified the parties and City Staff. Commissioner Sipe then asked Commission if they would accept the parties and they did. She reviewed the procedures and then asked if any members of the Commission had a conflict of interest, bias, or engaged in ex parte communication, Mayor Burbridge stated that she is an adjacent property owner and will be stepping down and recusing herself from the hearing. Commissioner Sipe then swore in the parties and then reviewed the Order of Presentation.

A. Variance for Residential Dwelling on an A-1 Parcel Located on McCoy Ave.

Josh Ray stated that Roshana Moojen will be appearing via FaceTime if she needs to add anything to the discussion.

Planning Technician, Joshua Hedgpeth presented the Staff Summary and Finding of Facts to Commission and added a letter from the applicant, which is marked as Exhibit 1 and the San Juan County District Court papers, a Final Decree of Dissolution and a Marital Settlement Agreement, as Exhibit 2.

Applicant, Mike Fauteaux, spoke to Commission about his plans for this request. He mentioned that he wants to be allowed to subdivide the parcel into two smaller parcels less than five acres each with intent to allow residential constructions. He reviewed finding of fact #7 with Commission on public access easement and driveway access. Mike mentioned the letter of hardship that was presented to Commission. He mentioned that the property is partially his and partially his ex-wife's stating that it is court ordered to split the property. Adjacent owners have expressed their concern that they are not just considering a split of one lot or two or construction of just one home being built the concern is one home can go on one lot and one home on another lot and zoning is now 5 acres there could potentially be two homes on six acres.

The Community Development Department recommends DENYING this application for a variance to Sec. 26-2-24 Area Regulations to allow the applicant to subdivide the parcel (Parcel ID #R4008099) in two smaller parcels, located on McCoy Ave. and Santistevan Ln. in Aztec, New Mexico. Advising Commission to accept Findings of Fact #1-9 and vote "NO" to show the motion as DENIED.

MOVED by Commissioner Current, SECONDED by Commissioner Sipe to approve the application for a variance to Sec. 26-2-24 Area Regulations to allow the subdivision of Parcel ID #R4008099 into two smaller parcels, located on McCoy Ave. and Santistevan Ln. in Aztec, New Mexico, accepting Findings of Fact #1-9.

A Roll Call Was Taken; Motion Passed Two to One

**XV. CITYMANAGER/COMMISSIONERS/ATTORNEY REPORTS**

Josh mentioned that the City was able to get a story in the Talon, for the next issue, which would state the recent Legislative Appropriation by the San Juan County Delegation for the Arterial Route and the appropriation amount is \$3.8 million.

Commissioner Locke stated that she is excited about the Vision Plan and the presentation that Angela Watkins, Vicky Ramakka, and Michelle Lindsey gave was very informative.

Commissioner Current stated that it has been a real privilege to get to know City Staff and work with fellow Commissioners.

Larry Thrower mentioned that he will be out of town February 27 and 28 in Albuquerque for a seminar, but will be in City Hall on the February 26<sup>th</sup> in the afternoon for regular hours.

**XVI. DEPARTMENT REPORTS**

None

**XVII. ADJOURNMENTS**

MOVED by Mayor Burbridge to adjourn the meeting at 8:10pm.

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Mayor, Sally Burbridge

ATTEST:

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Sherlynn Morgan, Administrative Assistant

MINUTES PREPARED BY:

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Chelsea Clowe, Support Service Secretary

# Staff Summary Report

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**MEETING DATE:** March 11, 2014  
**AGENDA ITEM:** XI. CONSENT AGENDA (B)  
**AGENDA TITLE:** Travel Requests

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**ACTION REQUESTED BY:** Project Management, Electric, Tourism, Library & Info. Tech.  
**ACTION REQUESTED:** Approval of Employee/Public Official Travel Requests  
**SUMMARY BY:** Cheryl Franklin

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## **PROJECT DESCRIPTION / FACTS** (Leading Department)

- Resolution 2003-603 identifies the requirement for employee/public official travel requests to be pre-approved by the commission. All travel requests will be submitted to the commission for approval prior to the travel occurring except in unusual circumstances when the City Manager may approve as provided in resolution 2003-603.
- The attached log is sorted by dates of travel and then by department.
- If travel/training is to be reimbursed or some of the costs will be paid by another entity, those notes have been included on the log.

## **FISCAL INPUT** (Finance Department)

- All departments requesting travel have sufficient funds budgeted within their travel/training budgets

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**SUPPORT DOCUMENTS:** Travel Log March 11, 2014

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**DEPARTMENT'S RECOMMENDED MOTION:** Approve Employee/Public Official Travel Requests

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**EMPLOYEE/PUBLIC OFFICIAL TRAVEL REQUESTS FOR COMMISSION APPROVAL**

**MEETING DATE: March 11, 2014**

<b>Dates of Travel</b>	<b>Department</b>	<b>Employee</b>	<b>Purpose of Travel/Location</b>	<b>Over-night</b>	<b>Out of State</b>	<b>Costs</b>	<b>Explanation of Cost</b>	<b>FY14 Budget Available</b>
03/12-13/14	Proj. Mgmt.	Laurie Martinez	CDBG Grant Workshop Albuquerque, NM.	Yes	No	72.00 83.00 50.00	Meal & Gratuity Allowance Lodging Estimate cost for fuel	Yes
03/16-21/14	Electric	Amos Trujillo	40 <sup>th</sup> Annual Meter School Ft. Collins, CO.	Yes	Yes	306.60 370.00 200.00 450.00	Meal & Gratuity Allowance Registration, Book & Exam Estimated cost for fuel Lodging	Yes
03/16-21/14	Electric	Eric Mietchen	40 <sup>th</sup> Annual Meter School Ft. Collins, CO.	Yes	Yes	306.60 345.00 450.00	Meal & Gratuity Allowance Registration & Book Lodging (Riding w/A. Trujillo)	Yes
03/24-28/14	Electric	Amos Trujillo	Electricity Metering Systems Training- Itron West Union, SC.	Yes	Yes	270.00 635.81 100.00 523.60	Meal & Gratuity Allowance Airfare & Car Rental Estimated cost for fuel Lodging	Yes
05/05-08/14	Tourism	Wilann Thomas	NM Governor's Conf. on Tourism "NM Tourism- The Next Generation" Ruidoso, NM.	Yes	No	122.40 265.00 100.00 267.00	Meal & Gratuity Allowance Registration Estimated cost for fuel Lodging	Yes
06/26-29-14	Library	Sabrina Hood	American Library Conference Las Vegas, NV.	Yes	Yes	198.60 250.00 200.00 299.04	Meal & Gratuity Allowance Registration Estimated cost for fuel Lodging	Yes
06/26-29-14	Library	Karen Lozier	American Library Conference Las Vegas, NV.	Yes	Yes	198.60 250.00 299.04	Meal & Gratuity Allowance Registration Lodging (Riding w/Sabrina)	Yes

**EMPLOYEE/PUBLIC OFFICIAL TRAVEL REQUESTS FOR COMMISSION APPROVAL**

**MEETING DATE: March 11, 2014**

<b>Dates of Travel</b>	<b>Department</b>	<b>Employee</b>	<b>Purpose of Travel/Location</b>	<b>Over-night</b>	<b>Out of State</b>	<b>Costs</b>	<b>Explanation of Cost</b>	<b>FY14 Budget Available</b>
06/26-29-14	Info. Tech.	Randall Keeswood	American Library Conference Las Vegas, NV.	Yes	Yes	198.60 250.00 299.04	Meal & Gratuity Allowance Registration Lodging (Riding w/Sabrina)	Yes

# Staff Summary Report

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<b>MEETING DATE:</b>	March 11, 2014
<b>AGENDA ITEM:</b>	XI. CONSENT AGENDA (C)
<b>AGENDA TITLE:</b>	2012 GO Bond Agreement

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<b>ACTION REQUESTED BY:</b>	Sabrina Hood, Library Director
<b>ACTION REQUESTED:</b>	Approve the 2012 GO Bond Agreement
<b>SUMMARY BY:</b>	Sabrina Hood

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## **PROJECT DESCRIPTION / FACTS** (Leading Department)

- The grant agreement was received Feb. 25, 2014. Letter notification states these grant agreements are generally the same as the 2010 GO Bond Agreements, please note the following:
  - Article III. Notice Provisions and Grantee and Department Designated Representatives – this should be the person who should be contacted if there are issues with this contract. For routine reimbursements, we will contact the library director and /or the relevant financial staff.
  - On the signature page (p.13), under Grantee, the person who signs must have authority to enter the City of Aztec into contracts.
  - Article VIII. Paper Periodic Reports – attached as Exhibit 1, these reports are submitted with each Request for Payment.
  - Article IX. Request for Payment Procedures and Deadlines – the Request for Payment form is attached as Exhibit 2. Continue to send in your supporting documentation, i.e., what you purchased and your proof of payment. Notarization is not required for Exhibit 2.
  - Please ignore Exhibit 3.
- The use of GO Bond is governed by NMAC 4.5.8-Title 4 Cultural Resources; Chapter 5 State Library, part 8 Distribution of General Obligation State of NM Bond Funds to Public Libraries.
- GO Bond Funds will be distributed on a reimbursement basis.
- Return the two complete agreement copies, signed with blue ink.

## **PROCUREMENT INPUT** (If applicable, Purchasing)

- Both city and state procurement requirements will be followed for purchases. In addition, this funding will only be utilized on those items which meet the requirements of the funding agreement.

**FISCAL INPUT** (If applicable, Finance Department)

- The funds provided through the Library General Obligation Bonds are to supplement the library funds. The City may not reduce its funding for books or materials as a result of the additional funds provided through the library bonds. If it is determined a reduction has occurred, the library shall be ineligible to receive funds in the next library bond program. NMAC 4.5.8
- The library bond program funds library resources and equipment (NMAC 4.5.8)
  - “Library resources” means library holdings intended for public use and the tools required to make the resources usable by the public. Library resources can include books, videos, DVDs, sound recordings, electronic and digital media, and information materials accessed via the internet.
  - “Equipment” means computers, software and related peripherals; servers; thin client terminals; networks, including wireless networks; telecommunications; automation systems; and other equipment used to assist in meeting the information needs of a library’s clients.
- The FY15 Preliminary Budget, General Fund, Library Department, will include the funds identified in this agreement: \$12,764.58
- “The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this agreement.”
  - The official representative is the person whom the State Library will contact if there are issues related to the Agreement. If there are questions about reimbursements, e.g., how the GO Bond monies are being spent, the State Library will contact the Library Director first.
  - The grantee representative for the City of Aztec – Library will be Kris Farmer, Acct Tech III. The 2010 GO Bond Agreement identified Kathy Lamb, Finance Director as the representative; however, changes in the financial forms associated with the agreement require the grantee fiscal officer and grantee representative to sign requiring a change in the representative.

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**SUPPORT DOCUMENTS:** 2012 GO Bond Agreement

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**DEPARTMENT’S RECOMMENDED MOTION:** Move to APPROVE 2012 GO Bond Agreement

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NEW MEXICO



STATE LIBRARY

February 19, 2014

Dear Sabrina,

Please find enclosed two copies of your 2012 General Obligation Bond Agreement. Return the two complete copies, signed with blue ink, to: Development Bureau, New Mexico State Library, 1209 Camino Carlos Rey, Santa Fe, NM 87507.

Please ensure, as appropriate, that your community's financial officials receive copies of all GO Bond-related documents. All documents are sent to the Library Director.

Although these Grant Agreements are generally the same as the 2010 GO Bond Agreements, please note the following:

- Article III. Notice Provisions and Grantee and Department Designated Representatives – this should be the person who should be contacted if there are issues with *this contract*. For routine reimbursements, we will contact the library director and/or the relevant financial staff.
- On the signature page (p. 13), under Grantee, the person who signs must have authority to enter the City of Aztec into contracts.
- Article VIII. Paper Periodic Reports – attached as Exhibit 1, these reports are submitted with each Request for Payment.
- Article IX. Request for Payment Procedures and Deadlines – the Request for Payment form is attached as Exhibit 2. Continue to send in your supporting documentation, i.e., what you purchased and your proof of payment. Notarization is not required for Exhibit 2.
- Please ignore Exhibit 3.

The use of GO Bond funds is governed by NMAC 4.5.8,  
<http://www.nmcpr.state.nm.us/nmac/parts/title04/04.005.0008.htm>

More information and frequently asked questions are located on the NMSL website at:  
<http://www.nmstatelibrary.org/component/content/article/38-funding-for-libraries/1873-2012>

We look forward to working with you as you use these funds to enhance library resources for New Mexicans. Please let us know if you have any questions.

David Hurley  
Bureau Chief – Library Development Bureau

Patricia Moore  
Technology Consultant, Development Bureau

**STATE OF NEW MEXICO  
DEPARTMENT OF  
FUND CAPITAL APPROPRIATION PROJECT**

**THIS AGREEMENT** is made and entered into as of this 19<sup>th</sup> day of February, 2014, by and between the Department of Cultural Affairs, New Mexico State Library Division, hereinafter called the "Department" or abbreviation such as "NMSL", and the City of Aztec, hereinafter called the "Grantee" on behalf of the Aztec Public Library. This Agreement shall be effective as of the date it is executed by the Department.

**RECITALS**

**WHEREAS**, in Chapter 54, Section 10, Paragraph B(1)(b) of New Mexico Laws of 2012, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

**WHEREAS**, NMSA 1978, Section 18-2-4 directs the state librarian to make rules and regulations necessary to administer the division and as provided by law, and NMSA 1978, Section 18-2-4(B) directs the state librarian to administer grants-in-aid and encourage local library services and generally promote an effective statewide library system;

**WHEREAS**, the state librarian promulgated administrative rules to govern the distribution of general obligation bonds, which are compiled as Section 4.5.8 NMAC;

**WHEREAS**, the Grantee is a library, or fiscal agent for a library, that is eligible for receipt of such funds because it is a local public library, or fiscal agent for a local public library, as defined under Section 4.5.8 NMAC that has filed an approved annual report, or is acting as fiscal agent to a library that has filed an annual report, with the Department;

**WHEREAS**, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, the Department determined the amount of the Grant based on the criteria described in Rule 4.5.8.8 NMAC ("Distribution of Funds").

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

**ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE**

A. The project that is the subject of this Agreement is described as follows:

Project No. GOB13-12-1233 for three million dollars (\$3,000,000.00)

APPROPRIATION REVERSION DATE: 30-JUN-2016

Laws of 2012, Chapter 54, Section 10, Paragraph B(1)(b), three million dollars (\$3,000,000.00), for equipment and supplemental library resource acquisitions, including print, non-print and electronic resources, and for planning, designing and constructing capital improvements to include library facilities for tribal libraries statewide.

The Grantee's total reimbursements shall not exceed, Twelve Thousand Seven Hundred Sixty Four Dollars and Fifty Eight Cents (\$12764.58) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, which equals zero dollars (\$0.00) which equals, Twelve Thousand Seven Hundred Sixty Four Dollars and Fifty Eight Cents (\$12764.58) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## **ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

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<sup>1</sup> The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000). " See, Section 13-4A-4 NMSA 1978.

<sup>2</sup> "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
  - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
  - b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

- (vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:
  - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
  - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
  - c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.
  - d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: City of Aztec on behalf of the Aztec Public Library

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

FAX: \_\_\_\_\_

Department: New Mexico State Library

Name: Development Bureau

Address: 1209 Camino Carlos Rey, Santa Fe, NM 87507

Email: [library.development@state.nm.us](mailto:library.development@state.nm.us)

Telephone: 800-340-3890

FAX: 505-476-9721

The Grantee and the Department agree that both parties shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

**ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

## **ARTICLE V. EARLY TERMINATION**

### **A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

### **B. Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

### **C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

## **ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS**

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

**ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

**ARTICLE VIII. REPORTS**

**A. Paper Periodic Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due and submitted with each of Grantee's Requests for Payment to the Department beginning with the submission of the first Request for Payment following execution of this Agreement by the Department and ending upon the Grantee's submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days

advance, written notice of any change to the reporting period.

**B. Paper Final Report**

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due at the time of submission of each of Grantee's Requests for Payment to the Department beginning with the submission of the first Request for Payment following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article XI, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee's designated representative in Article III herein, that the expenditures are valid and were received by the Grantee as services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those

contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the Grantee incurred the expense, if total unreimbursed expenditures at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Ninety (90) days before the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES**

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
  - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."
  - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
  - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.
- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
  - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
  - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
  - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
  - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
  - (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
  - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

**ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS;  
PROJECT RECORDS**

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

**ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

**ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

**ARTICLE XIV. SCOPE OF AGREEMENT**

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

**ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS  
FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS  
AGREEMENT**

The Grantee acknowledges and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made

available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Aztec may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Aztec’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Aztec or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Aztec or the Department”

**ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Grant Agreement. Should the early terminate the grant agreement, the City of Aztec may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Aztec’s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

**XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.**

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
  2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
  3. timely submit all required financial reports to its budgetary oversight agency (if any); and
  4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
  2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;

3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

**ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date of execution by the Department.

**GRANTEE**

\_\_\_\_\_  
Signature of Official with Authority to Bind Grantee

By: \_\_\_\_\_  
(Type or Print Name)

Its: \_\_\_\_\_  
(Type or Print Title)

\_\_\_\_\_  
Date

**DEPARTMENT OF CULTURAL AFFAIRS**

\_\_\_\_\_  
By: Its: Cabinet or Deputy Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Erin McSherry, DCA General Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ron Lucero, Budget Director, DCA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Devon Skeele, State Librarian

\_\_\_\_\_  
Date

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 1**

**PERIODIC REPORT**       **FINAL REPORT**

**Grantee:** \_\_\_\_\_

**Project Number:** \_\_\_\_\_      **Reporting Period:** \_\_\_\_\_

1. Please provide a detailed status of project referenced above.

***A. Third Party Obligations***

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

***B. Project Phase***

Bonds Sold  Plan/Design  Bid Documents  Construction   
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

Total Amount of all Notices of Obligation to Reimburse: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

Amount of Other Unexpended Funding Sources: \_\_\_\_\_

**PERIODIC REPORT**

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

**FINAL REPORT**

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

\_\_\_\_\_  
Grantee Representative/Title

\_\_\_\_\_  
Date

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 2**

**I. Grantee Information**

(Make sure information is complete & accurate)

- A. Grantee: \_\_\_\_\_  
 B. Address: \_\_\_\_\_  
Complete Mailing, including Suite, if applicable  
 \_\_\_\_\_  
City State Zip  
 C. Phone No: \_\_\_\_\_  
 D. Grant No: \_\_\_\_\_  
 E. Project Title: \_\_\_\_\_  
 F. Grant Expiration Date: \_\_\_\_\_

**II. Payment Computation**

- A. Grant Amount: \_\_\_\_\_  
 B. AIPP Amount (If Applicable) \_\_\_\_\_  
 C. Funds Requested to Date: \_\_\_\_\_  
 D. Amount Requested this Payment: \_\_\_\_\_  
 E. Grant Balance:                     \$0.00                      
 F.  GF     GOB     STB (attach wire if 1st draw)  
 G. Payment Request No. \_\_\_\_\_

**III. Fiscal Year Expenditure Period Ending:**  
(check one)

- (Jan-Jun)        Fiscal  
 (Jul-Dec)        Year

**IV. Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

\_\_\_\_\_  
**Grantee Fiscal Officer**

\_\_\_\_\_  
**Grantee Representative**

\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

**(Department Use Only)**

Vendor Code: \_\_\_\_\_  
Loc No.: \_\_\_\_\_

Fund No.: \_\_\_\_\_

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information.	

Division Project Manager	Date
I certify that the Grantee records and related appropriation laws agree with the above submitted information.	

**STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
EXHIBIT 3**

**DATE:** \_\_\_\_\_

**TO: Grantee Representative:** \_\_\_\_\_

**FROM: Department Representative:** \_\_\_\_\_

**SUBJECT: Notice of Obligation to Reimburse Grantee**

**Project Number:** \_\_\_\_\_

As the designated representative of the Department for Grant Agreement number [GOB13-12-1232] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract) #: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

Termination Date: \_\_\_\_\_

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

The Amount of this Notice of Obligation to Reimburse: \_\_\_\_\_

The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_

The Total Amount of all Notices of Obligation to Reimburse as of this Date:

\_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT A

NMSA 1978, Section 18-2-4(I) directs the state librarian to make rules and regulations necessary to administer the division and as provided by law. Section 18-2-4(B) directs the state librarian to administer grants-in-aid and encourage local library services and generally promote an effective statewide library system. Within these powers, the state librarian passed certain administrative rules to govern the distribution of general obligation bonds. **Thus, under Section 4.5.8.8 of the New Mexico Administrative Code, this Agreement includes the following additional terms:**

### § 4.5.8.8. DISTRIBUTION OF FUNDS

Money from the library bond program shall be distributed in the following manner:

A. Notification: When the library bond program funds are approved by the voters, the state library shall send a letter of notification and acceptance agreement to all public libraries informing them of their eligibility to receive the funds and the amount of funds they are eligible to receive. The agreement must be signed and returned to the state library one-hundred twenty (120) days before the start of the authorized expenditure period. Libraries that do not return the signed agreement within the required time period shall not be eligible to receive funds. Upon receipt of the agreements, the state library shall calculate the final allocation and the libraries shall be notified of any changes within ninety (90) days before the authorized expenditure period.

B. Allocation: The amount allocated to eligible public libraries is dependant upon the amount of bond funds approved by the state legislature and approved by the voters in a bond election. The state library may publish and make publicly available a list showing the bond fund allocations for each eligible library.

C. Criteria for allocation of funds: The state librarian shall establish the amount of funds to be allocated to each eligible library system using the following criteria.

- (1) Library shall be a local public library.
- (2) Library shall have filed an approved annual report with the state library.
- (3) Library shall return a signed agreement accepting the funds and agreeing to abide by the terms and conditions of this rule.
- (4) Non-profit libraries shall have an agreement with a local funding authority to act as their fiscal agent for these funds.
- (5) The library's and the local funding authority's accounting records shall be sufficient to document expenditures of library bond program money. At the sole discretion of the state library, such records may be audited annually or as needed by the state library or its designated representative.
- (6) County population and the library's legal service area shall be used to determine the amount of library bond program funds that shall be allocated to each eligible library.

D. Distribution of funds: Money from the library bond program funds shall be distributed in the following order:

- (1) library system allocation: each eligible local public library system, including rural library services facilities, shall receive a fixed allocation dependent upon the total library bond funds available;
- (2) per capita allocation: remaining library bond funds shall be distributed to each county on a per capita basis using the latest U. S. census bureau estimates, as follows: (a) each library shall receive funds based upon the legal service area population and proportional credit for the unassigned population in each county; and, (b) local public libraries that are the only local public library in their county shall receive the entire per capita allocation for the county.

(1) Library's book or materials budget shall not be reduced by the local funding authority as a result of eligibility for library bond program funds.

(2) Upon demonstrated evidence that such a reduction has occurred, the library shall be ineligible to receive funds in the next library bond program.

# Staff Summary Report

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**MEETING DATE:** March 11, 2014

**AGENDA ITEM:** XI. CONSENT AGENDA (D)

**AGENDA TITLE:** Law Enforcement Protection Fund Grant

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**ACTION REQUESTED BY:** Chief Heal

**ACTION REQUESTED:** To have Mayor sign Law Enforcement Protection Fund Grant Application

**SUMMARY BY:** Chief Heal

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## PROJECT DESCRIPTION / FACTS

- New Mexico Law Enforcement receives grants from the State depending on size of the Community and the number of certified officers employed by the City. The City of Aztec is eligible for \$29,000.00. This is a grant we have been receiving for years.

## TECHNICAL INPUT

## PROCUREMENT INPUT

## FISCAL INPUT

- There is no cost to the City to receive these funds.

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**SUPPORT DOCUMENTS:** Law Enforcement Protection Fund Grant Application

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**DEPARTMENT'S RECOMMENDED MOTION:** Approve the Mayor's Signature on the Law Enforcement Protection Fund Grant Application.

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APPLICATION FOR LAW ENFORCEMENT PROTECTION FUNDS  
FOR CLASS 1 MUNICIPALITIES AND COUNTIES  
PURSUANT TO CHAPTER 29, ARTICLE 13 NMSA 1978  
FOR THE JULY 1, 2014 - JUNE 30, 2015 FISCAL YEAR

I. Municipality or County: City of Aztec

II. Computation of Proposed Distribution:

A. Class 1 (Population per 2010 Census = 0 to 20,000) \$20,000

B. Total Number of Full-Time Certified Police Officers or Sheriff Deputies (\*) multiplied by \$600:  
15 X \$600 = 9000

(\*) Each officer or Deputy must be certified by the New Mexico Law Enforcement Academy pursuant to Section 29-7-8 NMSA or authorized as a New Mexico peace Officer pursuant to Section 29-1-11 NMSA. Certification status must be current on the registry at the Law Enforcement Academy.

C. Total Proposed Distribution\*\* (A + B) 29,000

III. Amounts distributed from the Law Enforcement Protection Fund must be expended only for the purposes allowed by Section 29-13-7 NMSA 1978. Please itemize the proposed use of these funds below:

A. Repair and purchase of law enforcement apparatus and equipment (itemized schedule, page 3, must be completed) <sup>1</sup> which meet minimum nationally recognized standards. (Please Note: regular maintenance on vehicles and police equipment; office furniture and supplies; or operating expenses are not allowable expenses) Rule 2 NMAC 110.3	\$ <u>20,000</u>
B. Expenses associated with advanced law enforcement planning and training.	<u>9,000</u>
C. Complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs.	
D. No more than fifty percent (50%) of the replacement salaries of law enforcement personnel participating in basic law enforcement training.	
E. New Mexico Finance Authority Intercept Agreement.	
F. <b>TOTAL ESTIMATED EXPENDITURES**</b> (must equal total distribution)	\$ <u>29,000</u>

\*\* Total Estimated Expenditures from Section III must equal the amount of Total Proposed Distribution in Section II.

IV. CERTIFICATION: Under penalty of law, we hereby certify that to the best of our knowledge and belief, the information contained in this application is correct, and that all expenditures of Law Enforcement Protection Fund monies will be made in accordance with Sections 29-13-7 and 29-13-9 NMSA 1978 as well as Rule 2 NMAC 110.3.

\_\_\_\_\_  
Mayor/Chairman

\_\_\_\_\_  
Police Chief or Sheriff

\_\_\_\_\_  
Date

<sup>1</sup>pertains only to municipalities with a population of 1500 or less and universities.

Municipality/County: City of Aztec Contact Person: Sherril Guruk  
 Phone Number: 505-334-7620

APPLICATION FOR LAW ENFORCEMENT PROTECTION FUNDS  
 FOR MUNICIPALITIES AND COUNTIES  
 PURSUANT TO CHAPTER 29, ARTICLE 13 NMSA 1978  
 FOR THE JULY 1, 2014 - JUNE 30, 2015 FISCAL YEAR

SUPPLEMENTAL SCHEDULE

Instructions: List the name, certificate number, and date of certification of all full-time police officers and sheriff deputies certified by the New Mexico Law Enforcement Academy pursuant to Section 29-7-8 NMSA 1978 or authorized to act as a New Mexico peace officer pursuant to Section 29-1-11 NMSA 1978. Please photocopy this form if additional space is needed.

Name of Full-Time Certified Police Officers and Sheriff Deputies	Certificate Number	Cert. Date
1) Blake, Jerry S.	98-0048-P	1-23-1998
2) Colson, Michael C.	10-0110-P	6-18-2010
3) Conroy, Devlin	13-0016-P	2-17-2013
4) Decker, Cody P.	12-0180-P	9-14-2012
5) Gonzales, Joseph P.	04-0303-P	12-17-2004
6) Heal, Michael, J.	79-0023-P	3-08-1979
7) Johnston, Brett	01-0358-P	12-20-2001
8) Kribbs, Heather	13-0029-P	3-01-2013
9) Morris, Troy W.	90-0049-P	3-16-1990
10) Newland, Jeremy L.	13-0123-P	6-14-2013
11) Oliver, Tessa B.	12-0182-P	9-14-2012
12) Simpson, Joshua C.	13-0030-P	3-01-2013
13) Swenk, Jacob		
14) Valenzuela, JR James F.	01-0247-P	6-30-2001
15) Whalen, John	13-0018-P	2-07-2013
16) * Bergevin, Jon *		
17) will be attending the		
18) Law Enforcement Academy		
19) April 2014 *		
20)		
21)		
22)		

NOTE: Please use name that has been reported to The Department of Public Safety (DPS), e.g. if female officer has married/divorced and has changed last name and has not been reported to DPS.

Municipality: City of Aztec

**ITEMIZED SCHEDULE  
FOR SECTION A ON PAGE ONE OF APPLICATION**

[NOTE: This schedule only pertains to municipalities with a Population of 1500 or less and universities.]

CATEGORY	# OF ITEMS	ESTIMATED COST
EQUIPMENT:		
Subtotal		\$
APPARATUS:		
Subtotal		\$
Repair of Equipment:		
Subtotal		\$
GRAND TOTAL (Must total Section A of Page One)		\$

# Staff Summary Report

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<b>MEETING DATE:</b>	March 11, 2014
<b>AGENDA ITEM:</b>	XI. CONSENT AGENDA (E)
<b>AGENDA TITLE:</b>	Russell Planning & Engineering, Contract Amendment #1

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<b>ACTION REQUESTED BY:</b>	Finance Department
<b>ACTION REQUESTED:</b>	APPROVAL For Russell Planning & Engineering, Contract Amendment #1
<b>SUMMARY BY:</b>	Kathy Lamb

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## PROJECT DESCRIPTION / FACTS (Leading Department)

- During the August 26, 2013 regular meeting, Commission approved award of RFP 2014-225 to Russell Planning & Engineering (RPE) for design services of the North Main Corridor connecting Main Avenue to the Aztec Ruins National Monument. Elements of the design include:
  - Plaza Area: Pedestrian friendly plaza design complete with landscaping and amenities.
  - Trails: This corridor will connect to the Aztec Trails network and shall include a trail design that will link to the Animas Pedestrian Bridge.
  - Landscaping: The entire corridor will be designed to include landscaping to correspond with the existing N. Main Avenue and transition along to the trail to the Aztec Ruins.
  - Roadway: This corridor will serve as the end of Main Avenue; therefore, a turn-around/loop solution will be designed to handle traffic flow.
  - Sidewalks: In anticipation of high pedestrian traffic, sidewalks and crosswalks will be included to support the anticipated traffic.
  - Utilities: In anticipation of future commercial development of the surrounding properties, the utility infrastructure will also be included in accordance with the City of Aztec Construction Standards.
- RPE has conducted three public meetings and meetings with land owners in the North Main Corridor. During those meetings, a vision has been developed and to ensure development occurs in a manner consistent with that vision, the City must develop land use and development regulations for the project area.

## TECHNICAL INPUT (Supporting Departments)

- Currently, vacant land in the North Main project area is a combination of C-2 and A-1 zone designation, neither of which provides the protections/flexibilities to support mixed uses, as discussed during the public forums.
- These regulations could take the form of a land use overlay to be included in Aztec's existing land use code or, perhaps more appropriate, a new zoning designation with development/architectural regulations included. The purpose of this project is to ensure the City has regulations in place that will guide North Main development (once the extension is complete) in such a way it will be consistent with the character of historic Main Ave. and will include attributes discussed during the North Main forums (i.e. zero lot lines, parking in the rear, sidewalks and open spaces that include room for outdoor

seating/dining, mixed uses that include commercial and residential uses, etc.). The project will require additional public meetings and stakeholder/landowner engagement, as well as code research, development, adoption and implementation. The code to be developed will be as concise as possible with ample visual examples/guidance on regulations.

#### **PROCUREMENT INPUT** (Purchasing)

- Qualification-Based Proposals in response to the City's Request for Proposals (RFP) 2014-225 were received on June 20, 2013. Proposals were evaluated, finalists were interviewed, and ultimately, a contract was negotiated with RPE.
- The amendment expands the scope of services requested in RFP 2014-225 but is related to the design and development of the North Main Corridor.
  - Approved Contract: \$178,813.37
  - Amendment #1: \$ 7,225.00
  - Amended Total \$186,038.37

#### **FISCAL INPUT** (Finance Department)

- \$200,000 was included in the FY2014 final adopted Capital Projects Fund budget specific to engineering services for North Main Avenue Development. Sufficient funds are available for the financial commitment if the Commission approves this amendment request.
- The proposal provided by RPE is an estimate of services to be provided. As the project progresses, it is possible additional funding may be requested by RPE (add'l meetings requested by City, expansion of visual examples in regulations, etc.)

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**SUPPORT DOCUMENTS:** RPE's Land Use Overlay Estimate

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to APPROVE Russell Planning and Engineering Contract Amendment #1

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Project Name  
Hours Estimate  
3/4/2014

Description	TOTAL FEES
<b>Aztec North Main - Land Use Overlay Planning</b>	
Coordination with staff	\$300
2 Workshops (assume 4 hours meeting and travel time each)	\$1,800
Notes, code drafting	\$2,000
Information gathering, review and preparation (ex studies and codes from town, similar towns)	\$600
Mapping as needed	\$375
Prepare powerpoint/image boards for workshop	\$1,800
Public meetings for adoption (2)	\$1,800
<b>Total</b>	<b>\$6,875</b>
<b>Expenses (mileage, copies, meeting supplies)</b>	<b>\$350.00</b>
<b>TOTAL ESTIMATED FEES</b>	<b>\$7,225.00</b>
Total fees	
<b>Note: Line item estimates are only estimates, and final costs may be reallocated between line items.</b>	
Notes:	
1. Assumes Town will provide meeting space, noticing and refreshments if necessary	
2. Consultant will provide draft code language and simple graphics	
3. Town will provide legal review and ordinances as required	

# Staff Summary Report

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**MEETING DATE:** March 11, 2014

**AGENDA ITEM:** XII. BUSINESS ITEMS (A)

**AGENDA TITLE:** Final Adoption of Ordinance 2014-435 Amending Article I, Section 17.1 of Chapter 17 - Personnel

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**ACTION REQUESTED BY:** Human Resources

**ACTION REQUESTED:** Approve Final Adoption of Ordinance 2014-435 Amending Article I, Section 17.1 of Chapter 17 - Personnel

**SUMMARY BY:** Karla Sayler

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## PROJECT DESCRIPTION / FACTS

- Commission last approved changes to the Personnel Policy in 2013.
- The current Personnel Policy required clarification in numerous Sections.

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**SUPPORT DOCUMENTS:**

- Ordinance 2014-435
- Changes to Personnel Policy

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve Final Adoption of Ordinance 2014-435 Amending Article I, Section 17.1 of Chapter 17 - Personnel

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**City of Aztec  
ORDINANCE 2014-435**

**Amendment of Article I, Section 17.1 of Chapter 17 - Personnel**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AZTEC:**

**SECTION ONE**

**Sec. 17-1. Personnel Policy.**

The document entitled "City of Aztec Personnel Policy, Revised March, 2014" is adopted by reference.

**SECTION TWO**

**Effective Date.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

**PASSED, APPROVED AND ADOPTED** This \_\_\_\_Day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Sally Burbridge, Mayor

ATTEST:

\_\_\_\_\_  
Karla Saylor, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry T. Thrower, City Attorney

\_\_\_\_\_  
Advertised Date

\_\_\_\_\_  
Effective Date

## Personnel Policy Changes

The following sections highlight in **Red** the recommended changes resulting from staff and Safety Committee review. The most and major changes occurred with Section 14. Drug and Alcohol Policy as a result of reviews and changes under the Safety Policy found major contradictions.

### SECTION 1. INTRODUCTION

**No changes**

### SECTION 2. RECRUITMENT AND SELECTION

#### 2.8 Rejection of Application

An applicant may not be considered for hire for the following reasons:

1. Has deliberately falsified an application or resume. (Current employees who violate this section shall be subject to disciplinary action, up to and including termination).
2. Is unable to perform the essential function of the position, with or without reasonable accommodations.
3. Has failed to pass a pre-employment background check, including driving record check.
4. Applicant with a poor driving record, as determined by the City through MVD driving records and NM Self Insurers Fund, shall be disqualified for employment.
5. The applicant is under the age of 18 and the position requires the applicant to operate a motor vehicle (Age exception: Youth employees hired by the City)
6. Is unable to meet the minimum job qualifications, education, and experience requirements as outlined in the job description.
7. Has submitted an application after an announcement closed, or has submitted an application for an unannounced position.
8. Has submitted an incomplete application, submitted only a resume, or failed to provide copies of documents cited in the job announcement by closing date.
9. Receives a positive test **or diluted test** result on a pre-employment drug test.
10. The applicant upon notification of a positive test may request a second drug test. A second test shall be allowed only if applicant submits to the pre-employment drug test the day of notification, and the second test is at the applicant's own expense.

11. Those applicants that receive a positive test on a pre-employment drug test (whether one or two tests failed) shall not be eligible to submit another application for employment for a period of six months.

### 2.13 Probationary Period

Probationary Period is the trial period during which a determination is made as to whether or not an employee is suitable for his/her position. The probationary employee is evaluated on the employee's ability, potential, and performance. A probationary employee serves "at will" and can be dismissed with or without cause by the City during probationary period.

An employee is allowed to transfer or be promoted while in their initial probationary period. At a minimum, an accumulative twelve (12) months of probationary period must be served.

1. Newly Hired. The probationary period for all newly hired employees is twelve (12) months. At six (6) months from the date of hiring, the supervisor will conduct an employee evaluation. The evaluation will be used to provide the employee with guidance as to whether the employee is meeting the job expectations or if the employee requires more improvement in order to continue employment.

If the decision is to *extend* probation, (for any time period up to an additional 6-month period) the employee shall be notified verbally. The Supervisor contacts the Personnel Director and a Personnel Action Form is prepared.

If, at any time during the twelve (12) month probationary period, the decision of the Supervisor is to *discontinue* the employee's employment, the City Manager shall be notified verbally by the Supervisor. The Supervisor contacts the Personnel Administrator, and a Personnel Action Form is prepared. The Supervisor shall inform the employee of termination prior to the start of the workday or at the end of the workday.

2. Police Officer. The probationary period for a police officer shall be as follows: placed on a 12-month probationary period at the completion of the basic police academy.
3. Uncertified Officers: Officers who are not certified by a recognized law enforcement academy on their hire date will remain on probation until twelve (12) months AFTER completion of basic law enforcement academy. Anniversary date for purposes of annual performance review will be one (1) year from date of hire.
4. Certified Officers: Officers who have law enforcement certification at the time of hire by the City will be on a twelve (12) month probationary period. Anniversary date for purposes of annual performance review will be one (1) year from date of hire.
5. Promotional Probation. The probationary period for an employee receiving a promotion within a department shall serve a six (6) month probation in their new position. The employee's anniversary date changes with the promotion. If the promoted employee does not satisfactorily complete his/her promotional probation, the Supervisor with approval by the City Manager shall determine on a case-by-case basis if the promoted employee shall be returned to the position previously held if still available. If the prior position or an equivalent position is not available, the employee will be released from employment with the City.

6. Transfers. The probationary period for an employee transferring from one job classification to another job classification within the same pay grade, or from one department to another shall have a twelve (12) month probationary period. The anniversary date shall change to the date of transfer. This section excludes duty assignments within a department.

If an employee transferring to a new department is earning a higher rate of pay than what is posted for the position, the employee shall retain current rate of pay if recommended by Supervisor and approved by City Manger.

7. Reclassification. A Supervisor must provide written justification to the City Manager for the reclassification of an employee's position. Upon approval by the City Manager, an employee's position may be reclassified. A new job description must be completed and forwarded to the Personnel Administrator.

## SECTION 3. CATEGORIES OF EMPLOYMENT

### 3.3 Exempt Employees

1. Under FLSA, certain employees are exempt from the minimum wage and overtime requirements if they meet the requirements of the "Standard Test." The City Clerk's Office keeps a supply of "Standard Tests" for Executive, Administrative and Learned Professionals.
2. An exempt employee has virtually "no rights at all" under the FLSA overtime rules. About all an exempt employee is entitled to under the FLSA is to receive the full amount of the base salary in any work period during which he/she performs any work (less any permissible deductions). Nothing in the FLSA prohibits an employer from requiring exempt employees to "punch a clock," or work a particular schedule, or "make up" time lost due to absences. Nor does the FLSA limit the amount of work time an employer may require or expect from any exempt employee, on any schedule.
3. All exempt employees will record their time either electronically or on a paper time sheet. All time must be reviewed and approved by the Department Head. City Manager or designee approves all time for Department Heads.
4. Employees taking bank time (e.g., sick leave, vacation, personal day, **administrative professional** leave), are required to submit a Leave Request (hard copy or electronically) which must be reviewed and approved by Department Head. City Manager or designee approves *Leave Requests* for Department Heads.
5. Employees taking a partial day(s) or full day(s) off will not have to deduct hours from their bank time if the time taken off **is four (4) hours or less** (e.g., sick leave, vacation, personal day, **administrative professional** leave), when the scheduled **eighty (80) hours per** pay period of actual time has been worked. The Employee must submit a *Leave Request* so the Supervisor can account for the time off.
6. For partial day(s) or full day(s) off when an employee works less than scheduled hours in a pay period, time shall be deducted from bank time to bring total hours to

scheduled hours on Employee’s time sheet (e.g., sick leave, vacation, personal day, **administrative professional** leave) and employee shall submit a *Leave Request*.

**SECTION 4. COMPENSATION AND BENEFITS**

**No changes**

**SECTION 5. LEAVE AND HOLIDAYS**

**5.6 Annual (Vacation) Leave Payout**

The purpose of vacation payout is to reduce the long term liability to the City and taxpayers associated with employee accrued leaves. It is the policy of the City to recognize employee service through the availability of vacation based on years of continuous employment to regular employees who are eligible for city benefits (as defined in City of Aztec Personnel Policy, [Section 3.2 Categories of Employment](#)). Vacation payout is available to all regular employees under the following provisions:

Vacation payout is subject to budgetary constraints as determined by the City Manager and Finance Director and may not be funded on an annual basis.

Employees who have a minimum of 80 hours vacation available as of October 15th of the current year, may at their option, sell back vacation hours to the City as follows:

Vacations Hours Available	Vacation Hours Buy Out
80 hours	10 hours
150 hours	20 hours
200 hours	30 hours
250 hours	forty (40) hours

Written notification of intent to sell vacation hours must be provided to the Finance Department between the dates of October 25th and November 10th. If insufficient vacation hours are available to the employee at the time of payout, the hours requested for payout may be reduced or eliminated. The employee needs to consider future vacation plans prior to a vacation payout request to avoid insufficient time available for a planned vacation.

Vacation payout will be processed with the pay date immediately preceding Thanksgiving (**last fourth** Thursday in November) and is subject to deductions required by law.

**5.9 Sick Leave**

1. Sick Leave is an employee benefit provided by the City, which provides time off from regular duty, with pay, when an employee is unable to work due to illness, injury, or for a qualifying event as defined by the Family Medical Leave Act ([FMLA](#) and [Section 5.18](#)).

2. Sick Leave shall accrue at ninety-six (96) hours per year for regular full-time employees.
3. Employees regularly scheduled for less than eighty (80) hours but more than forty (40) hours per pay period shall accrue sick leave at the rate of 4.6155% of regularly scheduled hours per pay period.
4. Abuse of Sick Leave may result in disciplinary action up to and including termination. Sick Leave abuse is defined as charging Sick Leave for work absences when not sick, except for an [FMLA](#) qualifying event. Any of the following conditions may indicate a need to review sick leave use:
  5. Patterns of use; i.e., after pay day, using the same day of the week repeatedly, the day before or after holidays, the day before or after annual leave, or the day before or after weekends.
  6. When a review of the Personnel Leave Register reveals that Sick Leave is being used at the same rate that it is being accrued.
  7. The Supervisor may require an employee to provide verification from a physician that an absence was caused by a medical situation anytime there is reasonable suspicion that Sick Leave is being abused.
  8. In the absence of approved family/medical leave, any employee wishing to take sick leave must notify his/her Supervisor of the illness prior to the time he/she is expected to report to work. Notification is to be made by telephone, text message, or other electronic device. The Supervisor may, at the time of the illness or upon the employee's return to work, require a doctor's statement confirming the medical necessity for the employee's absence. The Supervisor may also require a doctor's statement allowing the employee to return to work.
  9. Whenever an employee has been absent from duty because of an injury/illness for three (3) or more consecutive days, the employee is required to have certification by a physician.
  10. When employee's supervisor becomes aware of a potential [FMLA](#) event the Supervisor shall notify the Personnel Administrator to initiate the [FMLA](#) procedure.
  11. In extenuating circumstance, an employee may use his/her accrued sick leave to care for members of his/her immediate family inside or outside the hospital, and/or during surgery when recommended by the Supervisor and approved by City Manager. Immediate family members are defined as follows: spouse, son, daughter, mother, father, brother, sister, grandparent, grandchild, step-parent, step-child, step-sibling, foster/adoptive child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law.
  - ~~12. If an employee has used all accrued sick leave, accrued vacation, and sick bank hours (if applicable), and is still unable to return to work, the employee may be granted extended leave as provided for in [FMLA](#).~~

**Note:** Notification from another employee or relative is not acceptable, except in an emergency situation.

## SECTION 6. DISCIPLINARY ACTION AND TERMINATIONS

### 6.2 Grounds for Disciplinary Actions

Listed below are some, but not all, of employee actions which are reasons for disciplinary action or automatic termination. *This list is not exclusive. Incidents requiring discipline shall be handled on a case-by-case basis.*

1. Probationary Employees. At any time during the probationary period, or any extensions thereof, an employee whose performance does not meet the required standards of the position shall be terminated if the Supervisor does not believe that an extension of the probationary period would be of benefit. In such cases, the employee does not have the right to the grievance procedure since the probationary period is the final step in the selection process of regular employees.
2. Obtaining employment on the basis of false or misleading information.
3. Insubordination.
4. Continued unsatisfactory performance of duties.
5. Failure to work overtime when directed to do so by a supervisor.
6. Working hours not authorized by Supervisor.
7. Unwillingness of an employee to work satisfactorily with others; specifically due to any type of discrimination because of race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation, or any other legally protected status.
8. Violation of safety rules and policy which endangers oneself, other employees, or the public.
9. Willful, negligent or careless operation or maintenance of city equipment.
10. Use of foul or inappropriate language that is offensive to other employees, or the public.
11. Violation of the Drug and Alcohol Free Workplace Policy.
12. Any employee convicted of a second or subsequent DWI Offense, in accordance with NM Self Insurers Fund Policy, shall be excluded from coverage.
13. Any employee exceeding 6 points in a twelve (12) month period on their driving record, in accordance with NM Self Insurers Fund Policy, shall be excluded from coverage.
14. Loss of driver's license.
15. Unauthorized absence(s).

16. Continual tardiness.
17. Conflict of interest which results in private gain to the employee or detriment to City.
18. Coercion, intimidation, assault (including sexual assault), or threat of reprisal to any other employee.
19. Harassment of any kind on or off work premises, at any time (during work or after work hours), through means of text messaging, emails, cyberbullying, phone calls, personal confrontation, gossip, city or privately owned computers or similar devices.
20. Any employee activity which is found to substantially affect or lead to diminishing of the integrity, efficiency, or discipline of city service.
21. Theft or willful destruction of city property or co-workers property.
22. Acceptance of bribes.
23. Employees charged with criminal activities. (Employees may be placed on Administrative Leave with Pay or Leave without Pay pending final determination, or may be assigned other duties pending a final outcome of the matter. Each situation under investigation shall be administered on a case-by-case basis. The City Attorney shall review each case and advise the Supervisor, the Personnel Administrator, and the City Manager.
24. Fraud, embezzlement, or vandalism from the City.
25. Abuse of legitimate grievance processes resulting in repeated unsubstantiated claims.
26. Conviction of a felony the following shall apply:

Any employee who is indicted for a felony or who is bound over to District Court may, unless incarcerated, be retained on duty in present position pending final disposition of the matter by a court of law. *Exception:* If the crime for which the employee has been indicted or bound over is due to an alleged impropriety against the government or is of heinous or repugnant nature, the City reserves the right to suspend employment (without pay) until the matter is resolved. No employee charged with theft, fraud, embezzlement or vandalism against the City will be allowed to work until final disposition has been made. If the employee is vindicated the section below shall apply.

If incarcerated the employee may be placed on Leave without Pay. If the crime of which the employee is accused involves a tort or injury to a fellow employee, then the employee who is alleged to be the victim may request leave. Leave with pay for the victim shall be approved by the City Manager.

27. Any employee accused of using his/her position with the City for personal gain or to intimidate, coerce, implicate, or influence another citizen, or to obtain special favor or consideration, shall be placed on Leave without Pay pending thorough investigation of the allegation. Legal authority shall immediately be consulted for investigation and recommended action in such matters.

## 6.4 Disciplinary Actions – Verbal, Written, Suspension and Termination

Verbal Reprimand. If an employee commits a violation of work rules, City policy, or procedure, the Supervisor shall verbally notify the employee that an official warning is being given. The Supervisor shall outline and document possible solutions to correct the problem.

Written Reprimand. A written reprimand given by the Supervisor shall be entered into an employee's personnel record, subject to the Right of Appeal and Review in accordance with the procedures provided in Section 7. Notification of action must be given to Personnel Administrator.

Suspension. If employee does not respond to the first two steps in the progressive discipline policy, employee may be suspended, depending on the seriousness of the situation. The suspension notice shall include a final warning indicating that termination could be the next step in the process. Employees shall have the right to appeal as specified in Section 7. All suspensions from work shall be entered into an employee's personnel record. A Supervisor may suspend an employee from work without pay for flagrant violation or disregard of work rules, personnel policies, and regulations for varying periods of time approved by the Supervisor and the City Manager. Any suspension of more than five (5) **scheduled** days shall require a hearing (unless waived by employee). Notification of action must be given to the Personnel Administrator.

An employee who receives a suspension shall be provided by the supervisor an *Employee Action Plan* upon returning to work. The *Employee Action Plan* shall detail the areas, actions and goals necessary to improve the employee's performance. An employee's failure to meet the *Employee Action Plan* will result in termination.

Termination. Employees who fail to respond to the first three steps in the disciplinary process **or meet the goals set forth in the *Employee Action Plan*** shall be terminated.

**Note:** *Flagrant disregard for policies, procedures and regulations may warrant immediate termination as approved by the City Manager. Notification of action must be given to Personnel Administrator.*

## 6.5 Termination or Resignation

Voluntary Termination. When an employee decides to leave employment, he/she shall submit written notice to his/her Supervisor **by either email or written paper form (phone text messages are not acceptable)**. The employee is encouraged to give at least two weeks' notice prior to departure. Proper notice shall become part of the employment record. All City property including, but not limited to, keys, laptop computers, vehicles, tools, uniforms etc., must be returned at separation. Employees who resign voluntarily are asked to complete an exit interview that will help the City pinpoint any areas of employee dissatisfaction.

Involuntary Termination. This action may be initiated for any violation(s) as outlined in 6.2. Employee shall be presented with a Termination Notice prior to actual termination and with written notice of the reason(s) for termination. All City property including, but not limited to, keys, laptop computers, vehicles, tools, uniforms etc., must be returned at separation.

**Layoff.** Layoff is defined as severance of an employee from the work force due to lack of work or funding allocation. Layoff is made without prejudice and is not the fault of the affected employee.

If a position is available for which work and funds are available, an employee may accept a demotion or transfer to avoid a layoff, but only if the employee is otherwise qualified for the new position and a position exists.

An employee laid off shall have the first right of refusal if his/her position becomes open in the future.

**Selection for Layoff.** When more than one employee is in a position which has been scheduled to be discontinued, the following criteria may be considered to identify which person is to be laid off:

Versatility and/or value to the department  
 Overall job performance as compared to others within the department  
 Longevity within the department  
 Longevity with the City.

1. **Termination Notice.** Employees who have completed probation must be presented with a Termination Notice prior to actual termination. The termination notice shall include:
  - 1) Written notice of the reason(s) for the termination.
  - 2) Time frame of various actions. (Refer to [Section 6.5](#))

#### **6.10 Disbursement of Final Paycheck (Involuntary)**

When an employee is terminated from employment, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable (in accordance with [FLSA](#)) no later than five (5) **working** days following termination.

### **SECTION 7. EMPLOYEE ETHICS, GRIEVANCES & DISCRIMINATION COMPLAINTS**

**No changes**

### **SECTION 8. EMPLOYEE PERFORMANCE REVIEWS**

#### **8.2 Performance Review Schedule**

All regular employees (full-time and part-time; as defined in [Section 3.2 Subsections 1-4](#)) shall be given a performance review on the following occurrences:

1. At the completion of the probationary period, *Employee Action Plan*, or other times as deemed necessary by a Supervisor; and

2. Yearly - on anniversary date or promotional date as designated by the Personnel Administrator and approved by City Manager.

## SECTION 9. PERSONNEL RECORDS

No changes

## SECTION 10. DEFINITIONS

No changes

## SECTION 11. DEPARTMENT POLICIES

No changes

## SECTION 12. CITY VEHICLE POLICY

No changes

## SECTION 13. DRESS CODE POLICY

No changes

## SECTION 14. DRUG AND ALCOHOL POLICY

### 14.3 Definitions

#### Abuse of City of Aztec property

Is exemplified by, but not limited to, the following:

1. Negligent or willful damage or destruction of City of Aztec equipment or property;
2. Waste of materials or negligent loss of tools or materials;
3. Improper maintenance of equipment;
4. Damage caused by the use of tools or equipment for purposes other than that for which the tool or equipment was intended.

#### Accident

Any on the job injury which requires medical attention beyond first aid for the employee(s) and/or any other person involved, and/or cause the employee to lose time from work. It is also

considered an accident when City of Aztec property has been damaged during the work shift. **The damage property value shall be more than \$1,500 as determined by department head.** Also see definition of vehicle accident.

#### Alcohol

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

#### Alcoholic beverage

Alcohol, or any beverage, containing more than one-half of one percent by volume, which is capable of use for beverage purposes, either alone or when diluted.

#### Alcohol concentration (or content)

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test (EBT) or converted from a urine or blood sample.

#### Authorized Personnel

Authorized personnel are the Personnel Administrator, City of Aztec Manager, and the specific Department Director. Also, on a case by case need to know, the supervisor shall also be considered authorized personnel. Personnel who are authorized to have access to alcohol or drug test results or medical information pertaining to this policy will maintain complete confidentiality regarding this information.

#### Collection Facility

A hospital, clinic, or laboratory, or other valid facilities, approved by The City of Aztec to be used to collect body fluid or breathe samples to be analyzed for specific controlled substances or alcohol. The facility will have all the required Human Resource, materials, equipment, and supervision to provide for the collection, security, temporary storage, and transportation of the samples to the testing facility, or to conduct alcohol testing.

#### Confidentiality

The results of any drug or alcohol test shall be strictly confidential and shall not be disclosed without the prior written approval of the employee tested unless otherwise required by law. However, nothing in this paragraph will prohibit the lab, the MRO, or testing facility from releasing information relevant to an employee's test results to the authorized City of Aztec personnel. Additionally, only those persons authorized and those directly involved in the decision making process related to the tested employee will obtain any drug or alcohol testing information retained by The City of Aztec. There may be some instances where overriding public health or safety concerns may require the release of information otherwise considered confidential.

#### Constitutional Rights of Employees

The City of Aztec respects the constitutional rights of its employees. All actions taken by City of Aztec officials shall be consistent with the Constitution and laws of the United States and the State of New Mexico.

#### Contraband

~~Any article, the possession of which on City of Aztec premises or while on City of Aztec business causes an employee to be in violation of a City of Aztec work rule or penal law. Contraband includes illegal drugs and alcoholic beverages, drug paraphernalia, lethal weapons, firearms, explosives, incendiaries, stolen property, and counterfeit money. Nothing shall~~

~~preclude the possession of contraband for the purposes of educational instruction pursuant to the employee's job responsibilities.~~

Controlled substances

Any drug, substance or immediate precursor listed in Schedules I-V or Penalty Groups 1-4 of the Controlled Substance Act of 1988 as it may be revised from time to time.

Department Head

The person in charge of a department or designee.

Departmental policy

A Department's policy will prevail over this policy only where it is more restrictive than this policy and is not in direct conflict to this policy.

Disciplinary action

When this term is used it means discipline up to and including termination.

Drug or Illegal drug

Any drug in any detectable amount which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances such as marijuana and hashish, cocaine, heroin, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.

Personnel Administrator

The Personnel Administrator or designee.

Manager

The City of Aztec Manager or designee.

Medical Review Officer (MRO)

A licensed physician (doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his medical history and any other relevant biomedical information.

Motor vehicle

As defined by State Statute 66-1-4.11; "Every vehicle that is self-propelled."

Physician

A physician licensed by the State Board of Medical Examiners.

Proper medical authorization

A prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the name of the substance, quantity/amount to be taken, the period of authorization, and whether the prescribed medication may impair the employee's job performance. This requirement also applies to refills of prescription drugs. **The use of "medical**

marijuana” by any employee is not allowed under this policy. Marijuana is a prohibited drug in Schedule I of the Controlled Substances Act and it remains a violation of City policy for any employee to use marijuana.

Reasonable cause (or reasonable suspicion)

That the actions, appearance, and/or conduct of an employee who is on duty are indicative of the use of a controlled substance or alcohol. Reasonable suspicion shall include, but not be limited to, the following:

1. Abuse of City of Aztec property;
2. Employee behavior problems such as fighting, declining work performance, argumentative, uncooperative, or other disruptive behavior;
3. Receipt of written or oral statements by others concerning use of drugs or alcohol by employees or being under the influence;
4. Possession of any drug or alcoholic beverage, or any drug or alcoholic beverage container, or any drug paraphernalia, during working hours, in a City of Aztec vehicle or on City of Aztec property;
5. Indications of being under the influence or intoxication which include but not limited to the following:
  - Abnormally dilated or constricted pupils glassy eyes
  - Aggressiveness
  - Glazed stare or redness of eyes
  - Change of Speech (e.g. faster or slower)
  - Increased appetite for sweets
  - Change of personality (e.g. paranoia)
  - Inattentiveness
  - Constant fatigue or hyperactivity
  - Job impairment (inability to perform)
  - Constant sniffing
  - Difficulty walking
  - Mood swings
  - Disorientation needle marks
  - Drowsiness
  - Odor of alcohol
  - Dulled mental process
  - Excessive unexplained absences
  - Redness under nose
  - Excitement or Confusion
  - Sudden weight loss
  - Euphoria
  - Unsteady gait or balance
  - Flushed face
  - Other erratic behavior
  - Forgetfulness

Refusal to submit to alcohol or drug test

That an employee:

1. Refuses to sign a consent to testing form;
2. Fails to provide adequate breath or urine for testing without a valid medical explanation after he has received notice of the requirement for testing;
3. Engages in conduct that clearly obstructs the testing process.

Any refusal listed above will be treated the same as a positive illegal, controlled substance **with a positive** test result or a breath alcohol.

Substance abuse

Is exemplified by, but not limited to, the following:

1. Ingestion, inhalation, or injection of a controlled substance without proper written medical authorization;
2. Ingestion of an alcoholic beverage during working hours ~~or on City of Aztec property unless authorized as part of a City of Aztec sponsored event where the employee's ingestion is pursuant to their job responsibilities and where the employee's breath alcohol content is below 0.04;~~
3. Ingestion of an alcoholic beverage in a City of Aztec vehicle, or while operating City of Aztec equipment, or while on call or stand by duty;
4. Ingestion inhalation, or injection of a controlled substance without proper medical authorization, or ingestion of an alcoholic beverage during non-working hours, which causes an employee to be unable to work in a safe and effective manner during working hours;
5. Use of prescription or over-the-counter medication in a manner which it was not intended.

Testing facility

A certified laboratory or facility, approved by The City of Aztec to analyze body fluid or breathe samples for specific controlled substances or alcohol. A copy of The City of Aztec Drug and Alcohol Policy shall be provided to the testing facility. The testing facility shall comply with the procedures outlined in this policy when conducting tests. The testing facility shall contact The City of Aztec Personnel Administrator.

Under the influence

Is defined as abnormal behavior during working hours or while on call or on standby duty, which results from indulging to any degree in any alcoholic beverage, controlled substance, or drug which may limit an employee's ability to safely and efficiently perform his duties or poses a threat to the safety of the employee or others.

### Vehicle accident

After a vehicle accident in which an employee is involved during working hours and/or after a vehicle accident in which the employee was **at fault (as determined by law enforcement officer, safety coordinator, or supervisor)** when ~~involved~~ driving a City of Aztec vehicle at any time.

### Working hours (on duty)

From the time the employee arrives at the job site until the time he leaves including all lunch or other types of breaks.

## **14.4 Department Heads and Supervisors**

1. Training. Department Heads and Supervisory employees will be provided with specialized training on alcohol misuse and drug abuse.
2. Supervisor's Responsibilities. When an observation or knowledge of an employee being under the influence of drugs or alcohol or who poses a hazard to the safety and welfare of the employee or others, the supervisor will immediately notify the Department Head **or designee** in a confidential manner.
3. Department Head. If the Department Head makes a determination that reasonable suspicion exists to conduct a drug or alcohol test, the Department Head **or designee** will contact the HR Personnel Administrator to schedule a drug screen and if warranted a breath alcohol screen.
4. The Department Head **or designee** will transport the employee to the collection facility.
5. This information shall also be maintained in complete confidentiality as stated in this policy. Breach of confidentiality relating to test results or any other related matters will subject the employee to disciplinary action.

## **14.5 Employees**

1. Notification to Supervisor of Authorized Drug Use. Each employee shall report the use of medically authorized drugs **or other substances** which can impair job performance to the immediate supervisor. ~~Prescribed medication shall have a and provide proper written medical authorization to work from a physician.~~ It is the employee's responsibility to determine from the physician whether or not the drug would impair job performance depending upon the nature of the employee's job. Failure to report the use of such drugs **or other substances** or failure to provide proper evidence of medical authorization will result in disciplinary action. Any information received from an employee under this provision will be kept confidential except to the extent it may be shared with individuals who are in a need to know position.

The City of Aztec reserves the right to have a physician of its own choice determine if the medication produces hazardous effects at the prescribed dosage and may restrict the employee's work activity.

2. Additional Employee Responsibilities. Each employee who observes or has knowledge of another employee in an impaired condition to perform the job duties or who poses a hazard to the safety and welfare of the employee or others shall promptly report this fact to the immediate supervisor. The employee making the observations must file a written report to the suspected employee's supervisor by the end of the shift of

observing or learning of the condition. Any employee concealing the use of or condition of being under the influence of drugs, controlled substances, or alcohol by other employees on the job, or failing to make such a report will be subject to disciplinary action.

Any employee who makes a reasonable cause observation or who may be a witness at an accident scene shall also maintain complete confidentiality. Breach of confidentiality in the matter will subject the employee to disciplinary action.

3. Call Back to Duty. Employees called back to work at a time when they are off duty and not on stand-by duty, and they have been consuming intoxicants, those employees shall report this usage to the person calling them for special duty. ~~The person receiving the notification from the employee shall promptly notify the requesting supervisor.~~ Employees will not be required to report for call back duty until such a time that they are in compliance with this drug and alcohol policy (or their own departmental policy if it is stricter than this policy).
4. Employee Cooperation. All employees are expected to cooperate in the testing process. Any conduct that clearly obstructs the testing process such as tampering with the specimen or the testing procedure will result in termination.
5. Required Drug and/or Alcohol Testing. Testing shall be conducted:
  - (1) After an offer of employment.
  - (2) After an accident (see definitions).
  - (3) After a vehicle accident (see definitions).
  - (4) When a reasonable suspicion exists (see definitions).
6. Testing Methods. The methods by which substance abuse or alcohol use will be tested may include, but are not limited to, the following:
  - (1) Urinalysis
  - (2) Breath analysis
  - (3) Blood screening
  - (4) ~~Hair analysis~~
7. The supervisor of an employee who is seriously injured and cannot provide a breath or urine specimen at the time of the accident will notify the HR Personnel Administrator to notify the hospital and request that the hospital perform the tests necessary to determine the presence of controlled substances or alcohol in the employee's body at the time of the accident.

#### 14.6 Procedures for Administering Tests

When an employee or applicant is required to submit to a drug and/or alcohol test, the employee or applicant shall complete a consent form prior to testing. ~~If the applicant or employee does not understand the form, it will be explained.~~ The form authorizes the exam/test and the release of medical information regarding the medical condition and any test results. When the employee or applicant reports to the collection facility, he/she will be required to show positive picture identification. Consequently, employees are required to carry a valid driver's license with them while at work.

1. After an Offer of Employment. Refusal to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .02 and the job offer will be withdrawn.
2. After an Accident Requiring Medical Attention, Vehicle Accident, or Reasonable Suspicion. An employee shall be required to submit to a drug and/or alcohol test within two (2) hours. Refusal or failure to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .02 and the employee shall be subject to disciplinary action. If this is a subsequent positive, the employee shall be terminated.

When an employee is required to submit to a drug and/or alcohol test, due to an accident requiring medical attention, vehicle accident, or reasonable suspicion, the employee will be driven to the collection site by the Department Head or designee.

3. Medical Examination. If the employee is unable to provide adequate breath or urine to conduct testing, The City of Aztec may require the individual to undergo a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. The cost of the medical exam shall be paid by The City of Aztec and the employee will remain on ~~leave without pay status~~ administrative pay while awaiting the results of the medical exam.
4. Waiting for the Test Result. The applicant will not be permitted to begin work with The City of Aztec until the results of the test are received by the Personnel Administrator.

An employee, who has been sent for a test due to suspicious reasonable cause, shall remain off duty with administrative pay until the results of the controlled substances test are received by the Personnel Administrator. However, when an employee has been sent for a test due to post accident, the Department Head shall determine whether the employee is to remain off duty in a leave of absence status or shall be permitted to continue work as long as the employee does not operate any motorized, gas powered equipment, or any vehicle.

- ~~5. Exception. In the case of the police officer position, it is the responsibility of the Chief of Police or his designee to determine as to whether the police officer is permitted to drive and be without restriction while waiting for the drug screen.~~
5. Breathe Alcohol Testing. Alcohol testing may be obtained through the blood or urine analysis and the certified lab shall convert the analysis into a breath alcohol reading. However, The City of Aztec may choose to have the employee's breath alcohol content analyzed using an Evidential Breath Testing device (EBT) operated by a Breath Alcohol Technician (BAT). The test shall be conducted in a private setting.

#### 14.7 Post Test Procedures and Exam Results

If requested, a copy of the results of the test shall be supplied to the employee tested and the original results shall be maintained in a locked cabinet in the Personnel Administrator 's office for a period of at least two years, after which time they may be destroyed. However, the

Personnel Administrator may maintain the results and any reports on individuals who have violated this policy for the purpose of recording the number of violations.

1. Negative Results. If the test results are negative, no disciplinary hearing will be held ~~and the employee will be given back pay as though he worked as previously scheduled for this time.~~
2. Positive Results. A Medical Review Officer (MRO): shall review and interpret positive results obtained from the lab. The MRO will examine the possible alternate medical explanations for any positive test results and give the individual testing positive an opportunity to discuss the test results prior to making a final decision. The MRO will then contact the Personnel Administrator with the information. The MRO may verify a positive test result to the Personnel Administrator without having communicated with the employee if the employee expressly declines to discuss the results of the test, or if the employee has not contacted the MRO within 24 hours after notification.
3. Positive Drug Test Result. The employee will be immediately placed on **unpaid** administrative leave ~~without pay~~ and will not be allowed to perform any work on behalf of The City of Aztec.
4. Second Sample. An employee whose urine sample has tested positive has the option, within 72 hours of being notified by the MRO, of having the other portion of the split sample tested by the same lab or another certified lab. ~~The employee will be required to pay the City of Aztec cash in advance for all costs related to the urine sample for the re-testing.~~ The employee will remain on **administrative** leave ~~without pay~~ while awaiting the results of the re-test.
  - 1) If the second portion produces a negative result, or for any reason, the second portion is not available, the test is considered negative, no sanctions will be imposed and no disciplinary hearing will be held. ~~Additionally, The City of Aztec will reimburse the employee for the expense of the re-test, and back wages will be paid as though the employee worked as previously scheduled for this time period.~~
  - 2) If the second portion confirms a positive result, the employee will be provided with a notice of a ~~meeting with Personnel Administrator and Department Head, disciplinary hearing stating the date, time, and place of the hearing and a copy of the test results.~~
  - 3) ~~If the second portion produces a negative result, or for any reason, the second portion is not available, the test is considered negative, no sanctions will be imposed and no disciplinary hearing will be held. Additionally, The City of Aztec will reimburse the employee for the expense of the re-test and back wages will be paid as though the employee worked as previously scheduled for this time period.~~
5. First Time Offense. If this is the employee's first time for a positive result for drugs or alcohol testing .02 or greater ~~the hearing~~, the employee may voluntarily agree to be evaluated by a substance abuse professional (SAP) who will determine what assistance if any, the employee needs in resolving the problem. If the employee chooses to follow through with the course of action the SAP chooses, then the employee will not be terminated for drug abuse at this time.

- 1) If the employee tests positive for illegal drugs they will not be allowed to return to work until they provide a negative test result. The employee will be on unpaid administrative leave but can use any other leave time (e.g., sick leave, vacation) available. The employee will also be responsible for 100% of the cost for testing and fees. The City will specify the testing facility.
  - 2) Once the employee has returned to work, the employee shall be required to submit to unannounced drug and alcohol testing at least six times while on duty during the 12 months agreement for improvement process. The employee's Department Head and/or the Personnel Administrator will determine when the unannounced tests will be conducted.
  - 3) If the employee chooses not to be evaluated by the professional or the employee does not follow through with the course of action directed by the SAP, then this action by the employee shall be treated as though this were a subsequent positive result.
  - 4) This does not apply to an employee on their initial probation period. An employee on initial probationary period will be terminated.
6. Subsequent Positive Results. For drugs or alcohol testing at .02 or greater will result in termination of the employee's employment with The City of Aztec, regardless of any break in service.

~~Employees who test negative for illegal drugs or controlled substance but positive for breath alcohol concentration below 0.02:~~

- ~~• Will be allowed to return to duty unless the employee's departmental rules and regulations do not allow an employee's return to duty with any level of alcohol in their system.~~

~~Employees who test negative for illegal drugs or controlled substance but positive for breath alcohol concentration equal to 0.02 but less than 0.04:~~

- ~~• Will be placed, on leave without pay and will not be allowed to perform any work on behalf of The City of Aztec for the 24 hour period immediately following the alcohol test and are no longer under the influence of alcohol.~~
- ~~• Another breath test will be performed to ensure that the employee is no longer under the influence of alcohol.~~
- ~~• Be required to submit to unannounced alcohol testing at least six times while on duty during the 12 months immediately following the initial test.~~
- ~~• The employee's Department Director and/or the Human Resource Department will determine when the unannounced tests will be conducted;~~
- ~~• Be terminated if the breath alcohol concentration falls in this range twice in any consecutive 12 month period.~~
- ~~• Further, an employee will be terminated if the employee's breath alcohol concentration falls~~

~~in this range a total of four times during the employee's employment with The City of Aztec, regardless of any break in service.~~

~~Employees who test negative for illegal drugs or controlled substance but positive for breath alcohol concentration equal to or greater than 0.04 will:~~

- ~~• be immediately placed on leave without pay and will not be allowed to perform any work on behalf of The City of Aztec;~~
- ~~• The employee will be provided with a notice of a disciplinary hearing stating the date, time, and place of the hearing and a copy of the test results.~~

#### 14.8 Operation of Vehicles and Equipment

Any time the alcohol test produces a **positive test equal to or greater than 0.02**, the Department Head or designee shall ensure that the employee does not drive himself home in either his personal vehicle or in an assigned City of Aztec vehicle.

Under no instances shall an employee operate a motor vehicle or motorized equipment while he is suspected of or is intoxicated, under the influence of drugs, or under the influence of medication which may affect the employee's ability to operate such equipment.

#### 14.9 Searches and Inspections at the Workplace

An employee as well as City of Aztec property and equipment may be searched when there is reasonable suspicion to believe that the employee is in violation of this policy.

The City of Aztec may conduct general inspection and searches for drugs or alcohol **contraband** on City of Aztec premises or in City of Aztec vehicles or equipment wherever located. Searches and inspections may be initiated without prior notification and conducted at times and locations deemed appropriate by the City of Aztec.

An employee may have the right to refuse a search, however, an employee's consent to a search is required as a condition of employment and the employee's refusal will result in disciplinary action up to and including termination, even for a first refusal. **Employee has the right of a third party of their choice present during the search.**

Controlled substances, drugs believed to be illegal; drug paraphernalia **contraband** found on City of Aztec property will be turned over to the appropriate law enforcement agency and full cooperation given to any subsequent investigation. Substances which may be identified as an illegal drug by a layman's examination will be turned over to law enforcement authorities as well.

~~Other forms of contraband such as Firearms, explosives and lethal weapons will be subject to seizure during an inspection or search. An employee who is found to possess contraband firearms, explosives and lethal weapons on City of Aztec property or while on City of Aztec business will be subject to discipline up to and including discharge.~~

#### 14.10 Employee Convictions

Any **employee cited or arrested convicted** of a violation of a criminal drug or alcohol statute must notify the City of Aztec of such conviction within five (5) days of the conviction occurring.

Convictions are subject to disciplinary action up to and including termination even for the first offense.

#### **14.11 Special Provisions**

Police Detectives and Officers who are required to be in possession of firearms, alcohol, or drugs ~~or other contraband~~ in the course and scope of their employment, will be exempt from the provisions of this policy pertaining to possession of. Police employees are instructed to refer to the guidelines established by the Department's internal operating procedures.

#### **14.12 Reservation of Rights**

The City of Aztec reserves the rights to interpret, change, rescind, or depart from this policy in whole or in part without notice. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, whether expressed or implied.

#### **14.13 Disciplinary Leave**

An employee who receives disciplinary leave specific to this policy shall get three (3) scheduled work days without pay.

### **SECTION 15. SMOKING & ELECTRONIC CIGARETTE POLICY**

#### **15.1 Definitions**

##### Electronic cigarette

An electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device.

#### **15.2 Public Buildings**

Smoking, ~~including electronic cigarettes~~, is not permitted in any municipal buildings as well as within 50 feet of entrances to those places (NMSA 1978, § 24-16: Dee Johnson Clean Indoor Air Act).

#### **15.3 City Vehicles**

Smoking, ~~including electronic cigarettes~~, is prohibited in all City vehicles.

### **SECTION 16. UNIFORM POLICY**

**No changes**

## SECTION 17. SOCIAL MEDIA POLICY

### 17.3 In General

1. The establishment and use by any City department of City social media sites are subject to approval by the City Manager or his/her designees. All City of Aztec social media sites shall be administered by City of Aztec Information Technology (IT) or designated staff person.
2. City social media sites should make clear that they are maintained by the City of Aztec and that they follow the City's Social Media Policy.
3. Wherever possible, City social media sites should link back to the official City of Aztec website for forms, documents, online services and other information necessary to conduct business with the City of Aztec.
4. The city moderators will monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interest and goals of the City of Aztec.
5. The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Any content removed based on these guidelines must be retained by the moderators for a reasonable period of time, including the time, date and identity of the person posting the information, when available.
6. These guidelines must be displayed to users or made available by hyperlink.
7. The City will approach the use of social media tools as consistently as possible, enterprise wide.
8. The City of Aztec's website at <http://www.aztecnm.gov> is the City's primary and predominant internet presence.
9. All City use of social media sites shall adhere to applicable federal, state and local laws, regulations and policies.
10. City social media sites are subject to the New Mexico Public Records Act. Any content maintained in a social media format that is related to City business, including a list of subscribers, posted communication, and communication submitted for posting, may be a public record subject to public disclosure.
11. Comments on topics or issues not within the jurisdictional purview of the City of Aztec may be removed.
12. Employees representing the City government via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies.

13. Designated social media moderators are required to submit username and passwords to the City IT department when establishing new accounts or when change in password has occurred.

~~14. This Social Media Policy may be revised at any time.~~

**SECTION 18. MOTOR VEHICLE POLICY**

**No changes**

# Staff Summary Report

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<b>MEETING DATE:</b>	March 11, 2014
<b>AGENDA ITEM:</b>	XIV. Business (B)
<b>AGENDA TITLE:</b>	Final Adoption of Ordinance 2014-436 Amending Chapter 5 - Animals

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<b>ACTION REQUESTED BY:</b>	Animal Control and Care
<b>ACTION REQUESTED:</b>	Approve the Final Adoption of Ordinance 2014-436 Amending Chapter 5 - Animals
<b>SUMMARY BY:</b>	Tina Roper

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## PROJECT DESCRIPTION / FACTS

It has been several years since Chapter 5 Animals in the Aztec City Code has been amended. As such, The Animal Care and Control Staff has thoroughly reviewed Chapter 5 of the City Code and has determined the need for amending this chapter.

## PROCUREMENT / PURCHASING (if applicable)

None.

## FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

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<b>SUPPORT DOCUMENTS:</b>	Ordinance 2014-436
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<b>DEPARTMENT'S RECOMMENDED MOTION:</b>	Move to Approve the Final Adoption of Ordinance 2014-436 Amending Chapter 5 - Animals
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**City Of Aztec  
ORDINANCE 2014-436**

**An Ordinance Amending Chapter 5 - Animals**

**WHEREAS:** It has been several years since Chapter 5 Animals in the Aztec City Code has been amended; and

**WHEREAS:** The Animal Care and Control Staff has thoroughly reviewed Chapter 5 of the City Code and has determined the need for amending this chapter; and

**WHEREAS:** The Animal Care and Control staff has proposed that the attached Chapter 5 be adopted by the Aztec City Commission.

**NOW THEREFORE BE IT ORDAINED** By The Governing Body of The City of Aztec, New Mexico That ordinance 2014-436 be and hereby amended as attached:

**PASSED, APPROVED, SIGNED AND ADOPTED THIS** \_\_\_\_\_ day of \_\_\_\_\_ 2014

By the Aztec City Commission, City of Aztec, New Mexico

\_\_\_\_\_  
Mayor Sally Burbridge

ATTEST:

\_\_\_\_\_  
Karla Sayler, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry T. Thrower, City Attorney

ADVERTISED DATE OF FINAL ADOPTION: \_\_\_\_\_

EFFECTIVE DATE OF ORDINANCE: \_\_\_\_\_

## Chapter 5 ANIMALS

### ARTICLE I. IN GENERAL

#### Sec. 5-1. Penalty.

Violations of this chapter are punishable as provided in Section 1-8.  
(Ord. 2007-344, 03 Apr 2007)

#### Sec. 5-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings as defined to them in this section, except where the context clearly indicates a different meaning:  
(Ord. 2007-344, 03 Apr 2007)

##### **Abandon**

The leaving of any animal by any person without making effective provisions for its proper care. Failure to provide any animal with one or more of the necessities of life including air, adequate food, potable water, sanitary conditions, or protection from the heat, cold, or other elements of nature for twenty four (24) or more hours, or to leave in the custody of another person without their consent.

##### **Adoption**

The transfer of ownership of an animal that is impounded at the Aztec Animal Shelter to a qualified adopter.

##### **Animal**

Any vertebrate member of the animal kingdom excluding human beings.

##### **Animal Care and Control.**

The Department within the City of Aztec where Animal Control Officers and Animal Shelter Staff house stray and homeless animals and enforce the ordinances in this chapter.

##### **Animal Control Officer**

A person designated by the City to represent and act for the City in the impounding of animals, controlling of animals at large, and enforcing the provisions of this chapter and all regulations relating to animals as authorized by state or federal law.

##### **Anti-Escape Devise**

Housing, fencing, or other devises which prevents ~~a guard dog or~~ a dangerous dog from leaving property.

**At Large**

To be free of physical restraint, on or off the Owner's property, that is not confined within a building, shelter, walled or fenced area or secured by a rope, chain or other restraining device, or restrained on a leash no longer than eight feet and held by a responsible person capable of controlling the animal. (Verbal commands do not constitute control of an animal.) Animals abandoned without obvious ownership are also considered at large.

This definition does not apply to:

- Animals in a city designated dog park
- Wild or feral animals
- Animals used by a police officer for law enforcement purposes
- Cats, as they are allowed to roam free.

**Basic Grooming**

Maintaining the eyes, ears, beaks, hooves, feet, nails, coat, and skin of an animal.

**Bite**

The puncture or tear of the skin inflicted by the teeth of an animal.

**Bodily Injury**

A type of injury that would cause a reasonably prudent person to seek treatment from a medical professional or veterinarian without regard to whether the person actually sought the treatment.

**Boarding**

A per day fee charged to the animal owner once the owner has been notified that their animal is at the Animal Care and Control Facility.

**Breeder Permit**

A permit issued by Animal Care & Control to any person involved in controlled breeding of dogs and cats which are registered with a nationally or internationally recognized animal registry organization such as:

- AKC – American Kennel Club or a group recognized by AKC
- CFA – Cat Fanciers Association

**Collection**

The specific animals listed on the exotic animal permit.

**Confined**

Restriction of an animal at all times by an owner or keeper to an escape proof building or other enclosure away from other animals and the public.

**Dangerous animal**

Any of the following:

- Any Animal which when unprovoked, attacks a human being and causes bodily injury, serious bodily injury or death and the attack occurs in a place other than an enclosure in which the animal was being kept. engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person and the animal are off the property of the owner of the animal; or

- An animal that is at large and makes an unprovoked attack on a domestic animal that causes the death of the attacked animal; or an animal that is at large and makes an unprovoked attack on a domestic animal that causes serious bodily injury and the attacking animal has already made at least one (1) documented unprovoked attack on a previous occasion.
- An Animal which, when unprovoked, injures a person but the injury does not result in muscle tears or disfiguring lacerations, or require multiple sutures, or corrective or cosmetic surgery; or
- An Animal which because of its poisonous bite or sting would constitute a significant hazard to the public.

### **Direct Physical Control**

Precautions in place so a person may exercise physical control over the animal in the event it should become necessary to do so to protect the animal, a human, or another animal from harm.

### **Director**

The Executive Director of Animal Control and the Animal Shelter.

### **Domestic Abuse Boarding**

A program at Aztec Animal Care and Control where animals owned by a victim of a Domestic Abuse Situation may obtain temporary housing at Aztec Animal Shelter for little or no cost to the victim.

### **Domestic Animal**

Any animal that may be kept as a pet or as livestock within the City limits of Aztec so long as all provisions of this chapter are met, ownership of said animal is not prohibited by any international, federal, local or state law, and it is not a wild animal, as defined herein, including but not limited to the following animals:

- Reptiles – any non-venomous reptile that does not typically reach total lengths greater than eight (8) feet
- Birds – any birds commonly kept as pets, or any bird kept for falconry purposes by a state and federally permitted falconer
- Fish – any fish commonly kept as pets
- Mammals – any mammal commonly kept as a pet or livestock including, but not limited to, dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, sugar gliders, horses, cows, alpacas and llamas.

### **Endangered Species**

A species is endangered if it is in jeopardy of extinction or extirpation from the state; a species is threatened if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range in New Mexico

### **Euthanasia**

The administration of ~~an agent~~ a drug which shall cause the humane death of an animal. The administration of this drug shall only be given by a licensed Veterinarian or a Licensed

**Euthanasia Technician, certified through the State of New Mexico.** Such method shall not destroy brain tissue necessary for laboratory examination for rabies.

### **Exotic or wild animals**

Animals not normally considered domesticated, and shall include, but not limited to:

- Class *Reptilia*. Order *Phidia* (such as, but not limited to, racers, boas, water snakes and pythons) and Order *Loricata* (such as but not limited to, alligators, caymans and crocodiles).
- Class *Aves*. Order *Falconiforms* (such as, but not limited to, hawks, eagles and vultures) and Subdivision *Ratitae* (such as, but not limited to, ostriches, rheas, cassowaries and emus). Not included are small caged birds such as parakeets, canaries, love birds and finches.
- Class *Mammalia*. Order *Carnivora*; Family *Felidae* (such as, but not limited to, ocelots, lions, tigers, jaguars, leopards and cougars), except commonly accepted domesticated cats; the Family *Canidae* (such as, but not limited to, wolves, dingos, coyotes, jackals and hybrids produced by breeding these canids with domesticated dogs), except domesticated dogs; Family *Mustelidae* (such as, but not limited to, weasels, martins, minks, badgers, and ferrets); Family *Procyonidae* (such as, but not limited to, raccoon); Family *Ursidae* (such as, but not limited to, bears); and Order *Marsupialia* (such as, but not limited to, kangaroos and common opossum); Order *Edentata* (such as, but not limited to sloths, anteaters, and armadillos); Order *Proscocidae* (elephants); Order *Primata* (such as, but not limited to, monkeys, chimpanzees and gorillas); Order *Rodenta* (such as, but not limited to, porcupines); Order *Ungulata* (such as, but not limited to, antelope, deer, bison, camels and hybrids produced by breeding these ungulate animals). And Order *Artiodactyla*. Family *Suidae* (such as, Pot Belly Pigs).

### **Exposure to rabies**

The exposure resulting from a bite by an animal susceptible to rabies or from contact of the saliva of such animal with any break or abrasion of the skin.

### **Feral animal**

Any un-owned, untamed animal that will not voluntarily accept handling by humans despite usually being considered a domestic animal.

### **Field health office**

The health office(s) located in the county and administered by the division.

### **Health Services Division**

The health services division of the health and environment department of the state:

Post Office Box 968  
Santa Fe, New Mexico 87503

### **Heat or season**

A regularly recurring state of estrus during which the female animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

**Humane Trap**

Any trap designed to capture an animal without causing any injury to the animal.

**Hobby breeder**

A person involved in showing or controlled breeding of dogs and cats which are registered with a nationally or internationally recognized animal registry organization.

**Hybrid**

An animal created by breeding animals of different species. For purposes of this article, it includes, but is not limited to the hybrid offspring of domesticated dogs and wolves, or domesticated dogs and coyotes.

**Identification**

Any acceptable method, such as a microchip, identification tag, or tattoo, which can be used to readily trace the current owner of an animal.

**Impounding facilities**

Any Animal Care and Control Facility, pound, animal shelter, kennel, veterinary hospital, lot premise or building maintained or contracted by a municipality or county for the care and custody of animals.

**Inhumane treatment**

Any treatment of an animal prohibited by any provision of this chapter

**Intact Animal**

Any animal that has not been sterilized.

**Isolation**

The confinement of animal in an escape proof run or cage so that there is no possibility of direct contact with other animals or humans.

**Kennel Permit**

A permit issued by Animal Care & Control for any person within the City limits of Aztec wanting to have more than five (5) sterilized dogs or cats, providing all requirements are met. A kennel permit is required by any person having more than five non-sterilized animals that are being bred for profit. This permit must be applied for through the Planning Department. (A breeder's permit must also be obtained through Animal Care and Control)

**Laboratory**

The scientific laboratory division (SLD) of the health and environment department of the state, 700 Camino De Salud, Albuquerque, New Mexico 87106.

**Livestock**

Cattle, consisting of all bovine species; Horses, consisting of all equine species including mules, donkeys, sheep, consisting of all ovine species; goats, consisting of all caprine species; llamas or alpacas; rabbits; chickens; and pigs or hogs, consisting of all swine species. swine, sheep, or goats. (Does not include Pot Belly Pigs.)

**Multiple animal sites**

~~A premises at which more than five neutered or spayed dogs or cats, in any combination, are kept, and which has a current Fancier's permit (multiple animal permit).~~

### **Microchip**

A passive electronic device that is injected into an animal by means of a hypodermic-type syringe device and which is a component of a radio frequency identification (RFID) system (excluding any system that is not compatible with the scanner used by Aztec Animal Care and Control). Each microchip shall contain a unique and original number that is read by an electronic scanning device for the purpose of animal identification and recovery by the animal's owner. Microchips can be implanted by Animal Care and Control Staff or a Veterinarian of your choice.

### **Nuisance**

An animal that:

- Damages, soils, ~~damages~~ or defecates on any private property ~~(other than the owners)~~ or on public walks and recreation areas; or
- Causes unsanitary, dangerous, or offensive conditions; or
- Continuously barks, howls or makes noise common to its species, between the hours of 11:00pm and 6:00am;
- ~~Molests, Attacks or interferes with persons in the public right-of-way; or~~
- ~~Chases vehicles or attacks other domestic animals; or~~
- ~~Roams freely onto another person's property without permission.~~

### **Owner**

An owner of an animal is a person who, for more than 14 days, owns, harbors, keeps, knowingly causes or knowingly allows an animal to be harbored or kept, has an animal in his care, has assumed ownership responsibility or who represents the owner, or has allowed a stray animal to remain on property owned, leased or controlled by him.

### **Potable Water**

Water that is safe for drinking.

### **Permitted premises**

The establishment, household, property or site for which a valid permit has been issued by Animal Care and Control for use as a ~~grooming parlor, pet shop, hobby breeder site, animal exhibit site, exotic or wild animal site, multiple animal~~ or kennel site. ~~or premises where guard dogs are on duty.~~

### **Premises**

Any parcel of land and the structure(s) thereon.

### **Proof of Ownership**

Documentation or evidence which proves to the satisfaction of the Director that the person is the owner of the animal, including, but not limited to, a City of Aztec animal license, microchip identification, Veterinarian invoice, official registration or photographs of the animal.

### **Provoked**

The response of an animal that a reasonable person believes the animal has taken to defend itself, its owner or family member, or another person within its immediate vicinity

from assault, actual or perceived, or to defend real property belonging to its owner or family member.

**Qualified Adopter**

A person who is 18 years of age or older, who has never been convicted of any form of cruelty under any law, and has not been convicted two or more times for any violation of any ordinance included in this chapter, has never had any animal related permit revoked or suspended, has never failed to reclaim an animal from Aztec Animal Care and Control, has not surrendered an animal within one year of the time of adoption and has never been convicted of child or domestic abuse.

**Quarantine**

To confine and isolate from human beings and other animals in an approved quarantine facility or in all stipulations of a home quarantine when allowed by the Animal Care and Control Director. The quarantine period is ten (10) days from the date and time of the bite. ~~Is to detain or isolate an animal suspected of contagion.~~

**Running at large**

~~To be free of physical restraint, not confined within a building, shelter, walled or fenced area or secured by a leash, rope, chain or other restraining device. Animals abandoned without obvious ownership are also considered running at large.~~

**Service animal**

An Animal trained by a certified guide dog school to lead blind persons; an animal trained by a certified hearing ear dog school to aid hearing impaired persons, or an animal approved by an institution or program approved by Animal Control, including the Vocational Rehabilitation Division of the New Mexico Department of Public Education to assist a mobility impaired person.

**Serious Bodily Injury**

Bodily injury that creates a substantial risk of death or, serious permanent disfigurement or the loss or function of any body part.

**Shelter**

A structure that is capable of providing cover and protection from the weather. A shelter must have at least three (3) sides, a top, a bottom, it must have bedding material. It must be large enough so that the animal can enter, stand, turn around, and lie down, but small enough to prevent the loss of body heat during cold weather.

**Stray animal**

Any animal ~~running~~ at large, any animal abandoned, or any animal whose owner is unknown to Animal Care and Control staff.

**Sterilized**

Any animal rendered incapable of reproduction.

**Unaltered**

An intact animal, an animal that is capable of reproduction.

**Vaccination against rabies**

The injection of an approved rabies vaccine by or under the supervision of a licensed veterinarian, given in an amount sufficient to provide immunity from rabies ~~for a minimum of one year.~~ **as required by State Law.**

**Veterinarian**

A person with a Doctor of Veterinary Medicine degree licensed to practice veterinary medicine in the state.

**Vicious animal**

~~Any animal which kills or severely injures (so as to result in muscle tears or disfiguring lacerations, requiring multiple sutures, more than 4, or corrective or cosmetic surgery) a person or domesticated animal, but it does not include an animal which bites, attacks or injures a person or animal which is unlawfully upon its owner's premise, or which is provoked.~~

**Wildlife**

~~Any non-domesticated animal species, such as but not limited to: skunks, raccoons, bats, deer, coyotes, foxes, waterfowl, birds of prey, pigeons, migratory birds, porcupines, and snakes. Per State of New Mexico Department of Game & Fish Recommendations: Please be advised to avoid direct contact with wild animals. The public is advised to leave all wild animals in place even if they feel the animals are babies and appear to be orphaned or abandoned.~~

**Sec. 5-3. Transportation of Animals.**

Nothing in this chapter shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-4 to 5-200. Reserved.**

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**ARTICLE II. ADMINISTRATION AND PROCEDURES**

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**DIVISION 1. REGULATIONS AND OFFICERS****Sec. 5-201. Administration of Chapter.**

The Director is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Director to carry out the intent and purpose of the Animal Control Chapter. The Director may delegate authority to duly appointed Animal Control Officer(s) as he or she deems expedient to carry out the provisions of this chapter.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-202. Policy and Procedure.**

A Policy and Procedure Manual will be kept and maintained by the Animal Care and Control Director. This manual will contain information on procedures pertinent to this Department, such as, but not limited to cleaning procedures, adoption policies, care of animals and evacuation plans.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-203. Animal Control Officers as Peace Officers for Issuance of Citations.**

The City Police, the Director and Animal Control Officers have the authority of Peace Officers to issue citations for violations of this chapter and to perform such other duties as are prescribed by the City Manager. An Animal Control Officer shall wear a uniform, and a badge, and a name tag identifying them as an animal control officer. The badge shall be returned to the Director upon the termination of his employment.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-204. Right of Entry of Animal Control Officers.**

Animal control officers, in the performance of their duties, may enter upon private property, except a private residence, for the purpose of apprehending animals running at large, and stray animals, and checking on the welfare of animals.

**Sec. 5-205. Enforcement of Violations**

Each 24 hour period of violation, and each separate animal or condition in violation of this chapter, can constitute a separate offense.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-206 to 5-220. Reserved.**

**DIVISION 2. FACILITIES****Sec. 5-221. Established.**

There is established an Animal Care and Control facility located on Sabena Street, Aztec, New Mexico.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-222. Hours of Business.**

Animal Care and Control shall be kept open to the public for the transaction of business during the hours set by the Director.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-223. Unauthorized Removal of Animals.**

No person shall remove an impounded animal from an Animal Care and Control employee, Animal Care and Control vehicle, or the Animal Care and Control premises without lawful permission.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-224. Impoundment.**

It is the duty of the Animal Control Officers to take-up and impound **at Animal Care and Control** any stray or any animal kept or maintained contrary to this chapter.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-225 to 5-230. Reserved.****DIVISION 3. IMPOUNDING, SURRENDERING, REDEMPTION AND ADOPTION PROCEDURES****Sec. 5-231. Impounding Strays.**

1. All strays may be impounded.
2. When a stray is brought in by the public that person shall sign documentation stating that they are not the owner that they found the animal as a stray and request that Animal Care and Control impound as prescribed by law. It is not implied or guaranteed that any person bringing in a stray would be allowed to adopt the animal at the end of its stray hold.
3. Any stray which is impounded with a severe or life threatening injury or illness, shall be kept comfortable to the best of the Animal Care and Control's ability for the duration of the stray hold, however if such injury or illness is so severe that it is beyond Animal Care and Control's ability to alleviate suffering, then such animal shall be humanely euthanized immediately.

4. If a stray animal is wearing a license or anti-rabies tag, or has an identifying tattoo or other identification, the animal shall be confined at Animal Care and Control for a period of at least ~~five~~ **six (6)** days, during which time an attempt shall be made to locate and notify the owner. If a stray animal is not wearing a license, tag or other identification, the animal shall be impounded at Animal Care and Control for at least ~~three~~ **four (4)** days. The ~~Animal Shelter~~ Director may dispose of an impounded stray animal the day ~~following~~ **after** the required impoundment period in the following manner:
  - (1) The animal may be adopted;
  - (2) Sent to Rescue; or
  - ~~(3) Destroyed~~ **Euthanized** in a humane fashion. ~~as the Animal Care and Control Director deems proper.~~
5. When an Animal Control Officer finds that an animal is without proper care due to injury, illness, incarceration or absence of the owner or person responsible for providing care for the animal or does not get any response from any notices left at the residence, the Animal Control Officer shall take the animal into protective custody until the owner can be contacted.
6. If an animal is surrendered to the Animal Care and Control Facility the owner must sign a statement of surrender stating that they are the owner of the animal and that they now relinquish all rights and title and interest therein to the Animal Care and Control Department for the disposition of the animal as the Animal Care and Control Department deems best and waives any and all claims of damages against the Animal Care and Control Department and the City of Aztec.
7. When an owner surrenders their animal to the Animal Care and Control Facility, they will not be permitted to adopt from the facility for one year, unless they are surrendering the animal for euthanasia due to medical reasons.
8. ~~Animal Care and Control will not allow any dog or cat that has been impounded at Animal Care and Control to be adopted if Animal Care and Control knows the purpose is breeding or resale. No dog or cat adopted from Animal Care and Control will be sold, leased or rented to another party. Every dog and cat adopted from Animal Care and Control shall be spayed or neutered by a licensed veterinarian at the expense of the adopting party.~~  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-232. Redemption Fees and Procedures.**

1. An owner reclaiming a dog or cat shall pay the city the established reclaim fee as specified in Article V of Chapter 16 – Fee Schedule.
2. In addition the owner shall pay a sterilization fee (as established in Article V of chapter 16 Fee Schedule) if the animal they are redeeming is not sterilized, regardless of the jurisdiction from where the animal came in from. If the owner lives within the city limits of Aztec, they will be given the option to either obtain a Breeder permit, intact animal permit or get their animal sterilized. An owner reclaiming for the second time a dog or cat for which a

Breeder Permit or Intact Animal Permit has been issued will have the permit revoked and will be required to get their animal sterilized.

~~In addition, the owner shall pay a sterilization deposit (as established in Article V of Chapter 16 – Fee Schedule) and sign an agreement stating that within 30 days after release, the owner either will sterilize the animal or will obtain a hobby breeder or intact animal permit. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian documenting that the animal has been sterilized. An owner reclaiming for a second time a dog or cat for which an intact animal permit has been issued shall be required to either obtain a hobby breeder permit or, if the animal does not qualify for a hobby breeder permit, sterilize the animal.~~

3. The owner of any impounded dog or cat that has not been licensed as required by this chapter may redeem the animal by paying the required ~~license fees~~ **rabies vaccination fee plus impound charges** to Animal Care and Control, as established in Article V of Chapter 16 – Fee Schedule. ~~The owner will be allowed 96 hours to get such animal vaccinated. If owner fails to procure a vaccination certificate within such 96 hours, the paid vaccination fee shall be forfeited and the animal shall be impounded again.~~
4. The owner of any impounded dog or cat, regardless of jurisdiction, that does not have proof of a current rabies vaccination as required by this chapter will pay a fee to Animal Care and Control as established in Article V of Chapter 16 – Fee Schedule
5. The owner also shall reimburse the city for all boarding, medical and maintenance costs incurred by the city during the impoundment.
6. When the owner of an impounded animal comes to redeem that animal the Director may ask that they bring proof of ownership; Documentation or evidence which proves to the satisfaction of the Director that the person is the owner of the animal, including, but not limited to, a City of Aztec animal license, microchip identification, Veterinarian invoice, official registration or photographs of the animal.
7. An owner reclaiming an animal other than a dog or cat shall pay all reclaim fees established by the Animal Care and Control Director, and shall reimburse the city for all boarding, medical and maintenance costs incurred by the city during the impoundment.  
(Ord. 2007-344, 03 Apr 2007)

### **Sec. 5-233. Records Kept.**

A record of all animals impounded at Animal Care and Control shall be maintained for a period of three years. The record shall contain at least the following information:

1. A detailed description of the animal and picture when possible;
2. The manner and date of its acquisition by ~~the~~ Animal Care and Control;
3. A copy of a valid driver's license from the person bringing in the animal;
4. The date and manner of its disposal;

5. The name, address and telephone number, **copy of valid driver's license**, **if any**, of the party adopting or redeeming the animal;
6. All fees received; and
7. A record of all "dead on arrivals," including any identification information found on the animal and a description of the animal when possible.  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-234. Adoptions**

1. The Animal Care and Control Director or his or her designee shall have the authority to deny the adoption of an animal in our care.
2. All potential adopters will fill out an adoption survey form provided by Animal Care and Control, which will help staff match the potential adopter with the best animal.
3. Animal Care and Control will not allow any dog or cat that has been impounded at Animal Care and Control to be adopted if Animal Care and Control knows the purpose is for resale. No dog or cat adopted from Animal Care and Control will be sold, leased or rented to another party.
4. All Adoption records shall remain confidential, for the privacy and protection of individuals involved. All rescue groups shall remain confidential, for the privacy and protection of the groups involved. Information concerning animals reclaimed by their owners shall remain confidential, for the privacy and protection of the owners involved. Law enforcement and other animal control agencies are exempt from the confidentiality provisions hereof.

#### **Sec. 5-235. Failure to return Adopted Animal for Spay/Neuter**

All animals adopted from the Aztec Animal Care and Control Facility shall be spayed or neutered, prior to leaving the Facility unless age/weight or minor illness prevents surgery at that time. In which case said animal shall be brought back to the Facility for the scheduled appointment for spay or neuter no later than 3 months of age or when deemed medically fit regardless of the jurisdiction in which the animal resides.

#### **Secs. 5-236 to 5-300. Reserved.**

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**ARTICLE III. OWNER DUTIES**

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**Sec. 5-301. Liability of Damages Caused by Animals.**

If any animal shall do damage to either the body or the property of any person, the owner, or if the owner is a minor, the parent or guardian of such minor shall be liable for such damage, unless such damage shall have been occasioned to the body or property of a person who, at the time of such damage, was committing a trespass or other tort or was teasing, tormenting or abusing such animal.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-302. Restraint of Animals.**

1. It is unlawful to permit dogs in the streets or public places unless on a secure leash and under the immediate physical control of the person having custody thereof. No dog or other member of the canine families is allowed upon a public playground or on the premises of a public swimming pool or upon a school yard.

2. The above provisions do not apply when such an animal is in a bona fide animal show or training program authorized by law or appropriate school authority.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-303 302. Restraint Devices.**

A rope, chain, or other device may be used to restrain an animal, provided the following criteria are met:

1. The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness, the rope, chain or other device may not be wrapped around the animal's neck. Choke or prong type collars shall not be used.
2. The device must be at least 12 feet long unless such length would violate Section 5-302, in which case it shall be no less than eight feet (8') long. The device must be fastened so the animal can sit, walk and lie down comfortably; and must be unobstructed by objects that may cause the device or animal to become entangled or strangled. The device must be an appropriate size for the animal and not so heavy that it restricts or burdens the animal's movements.
3. The animal must have easy access to adequate shade, shelter, food and potable water.
4. An animal that lives the majority of its life tied out on some form of a restraint device (more than 4 hours a day) must be spayed or neutered and will not be qualified for a Intact Animal Permit, or Breeders Permit nor would the owner qualify for a Kennel Permit.
5. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces will be cleaned up regularly, but no less frequently than once a week.
6. The area where the animal is confined must be kept free of insect infestation, such as ant hills, wasp's nests, and flea, tick and maggot infestations.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-304. Confinement of Female Dogs and Cats During Mating Season.**

Any person in control of a female dog or cat in mating season shall confine such dog or cat so as to preclude other dogs or cats from either attacking or being attracted to such female animal.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-305 303. Dog and Cat Licenses.**

1. Any person owning, possessing or harboring any dog or cat of three (3) months of age or over shall obtain a license for such animal. Licenses may be obtained from Animal Care and Control. A current rabies vaccination certificate shall be presented at the time of the application for license. In the event a tag is lost, replacement tags must be purchased as established in Article V of Chapter 16 – Fee Schedule. The license shall expire one (1) year from the date of issue and shall be renewed annually. A late renewal charge (more than one (1) month beyond renewal date) will be issued per animal as specified in Article V of Chapter 16 – Fee Schedule. Senior Citizens 65 years or older will receive a discounted rate of half (1/2) price.
2. A current license tag shall be affixed to the licensed dog or cat at all times. in a reasonable manner, unless the licensed dog is being kept in an approved kennel, veterinary hospital, grooming parlor, is appearing in an approved show or is being trained; provided, that the person who is training a dog shall have in his personal possession the valid license tag for each dog and shall immediately display such upon request by an Animal care and Control Officer or personnel or other law enforcement officers.
3. Animals belonging to nonresidents who do not keep the animals within the corporate limits of the city for thirty (30) consecutive days shall be exempt from this section; provided, however, that all the other provisions of this chapter must be complied with.
4. The license fees shall not apply to dogs trained to assist, and, in fact, used to assist the blind or deaf, mobility impaired or to any police dogs.  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-306 304 to 5-400. Reserved.**

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**ARTICLE IV. PROHIBITED ACTIONS**

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**DIVISION 1. IN GENERAL****Sec. 5-401. Interference with Animal Control Officer.**

It is prohibited for any person to interfere with an Animal Control Officer in the performance of their duties required by this chapter. Interference shall be considered a misdemeanor.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-402. Service Animals Trained to Assist the Impaired in Public Places.**

It is unlawful for any person owning, operating or maintaining any public place of business or conveyance into which the general public has access, to exclude from there, any animal which is a service animal or has been trained to assist the blind, deaf or mobility impaired provided that such animal is under proper supervision of the handler or the blind or deaf or mobility impaired person whom it was trained to assist in conformance with the law.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-403. Fraudulent Use of Anti-Rabies and License Tags.**

1. It is unlawful for any person to affix anti-rabies or a license tag to the collar or harness of any animal other than the animal for which the anti-rabies or license tag was issued.
2. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control, a stolen, counterfeit or forged animal license tag, rabies vaccination certificate or other form of animal or premises license.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-404. Number of Dogs, Cats, Wolves and Coyotes Allowed.**

~~No person or household shall own, harbor or keep more than a combined total of five (5) dogs, cats, wolf hybrids, or coyote hybrids in any combination thereof over the age of three months. This limit shall not apply to a permitted premise, except no person or household will be issued a permit for more than four (4) wolf hybrids, coyote hybrids or any combination thereof.~~  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-405 404 to 5-420. Reserved.**

**DIVISION 2. CRUELTY TO ANIMALS****Sec. 5-421. ~~Generally~~-Inhumane Treatment of Animals.**

1. ~~It is unlawful for any person to willfully or maliciously kills, maims, disfigure, torture, kick, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.~~

- ~~2. When an Animal Control Officer finds that any animal is or will be without proper care because of injury, illness, incarceration or absence of the owner or person responsible for the care of the animal or does not get a response from any notices left at the residence, the Director may take up the animal for protective care; and, in the event of sickness or injury, upon the advice of a licensed veterinarian, the animal control officer may take such action as called for to prevent undue pain and suffering including immediate destruction of the animal.~~
1. No person shall euthanize his own animal in a manner other than the one defined in this chapter.
2. No person shall cause, allow, or permit any animal to remain in its own filth.
3. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety.
4. No Person shall fail to provide, at any time, any animal under his care to be without adequate wholesome food, potable water, shade, and shelter.
5. No person shall dock the tail or remove the dew claws of an animal over five (5) days of age, or crop the ears of an animal of any age, unless he is licensed to practice veterinary medicine in the State of New Mexico.
6. No person shall fail to provide basic grooming for any animal
7. No person shall fail to seek medical attention for any animal having obvious injury, or illness, or is infected with any dangerous or incurable or painfully crippling disease. (This subsection shall not be construed to include veterinary hospitals or animals under active veterinary care.)
8. No person shall fail to notify Animal care and Control when any motor vehicle that he is in control of strikes an animal.
9. No person shall own any animal having an infestation of ticks, fleas, or other parasites which has not been treated by a veterinarian or with appropriate commercially available treatments.
10. No person shall dye or otherwise artificially color any animal.
11. No person shall have a collar or harness attached that is of inadequate size so that is restricting the animal's growth or causing damage to the animal's skin.
12. No person shall tease, taunt, willfully or maliciously kill, maim, disfigure, torture, kick, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance any animal.
13. No person shall carry or transport an animal in any vehicle and fails to effectively restrain the animal so as to prevent the animal from being accidentally thrown from the vehicle.

14. No person shall place or confine an animal in a motor vehicle or trailer under conditions which may endanger the health of the animal due to temperature, lack of food or water, or other circumstances which may cause bodily injury or death to the animal.
15. No person shall cause, allow, or train any animal to fight another animal or be in possession of any animal fighting paraphernalia or training equipment.
16. No person shall abandon any animal that they have possession of at any business, on public property, or with any other person that has not agreed to be responsible for the care of the animal, or abandon the animal at the Animal Care and Control Facility. (Animals that are to be abandoned can be turned over to a staff member of the Animal Care and Control Department during normal business hours or a staff member can be reached for after hours drop off by calling Dispatch at 505.334.6622)
17. No person shall make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. (It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to public health.)
18. When an Animal Control Officer does not get a response from any notices left at the residence, and finds the animal to be without proper care, whether it be lack of food and water, sickness or injury, the Animal Control Officer has the right to take the animal into protective custody. If at any time an Animal Control Officer finds an animal that is in imminent danger of death whether on private or public property the Animal Control Officer shall take the animal and upon the advice of a licensed veterinarian, the Animal Control Officer may take such action as called for to prevent undue pain and suffering including basic medical treatment and or euthanizing the animal immediately  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-422. Work Cruelty.**

~~It is unlawful for any person to drive or work any animal cruelly.~~  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-423. Neglect.**

~~It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal.~~  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-424. Abandonment.**

~~It is unlawful for any person having charge, custody or ownership to abandon any animal. All Animals which are to be abandoned may be turned over to Animal Care and Control.~~  
(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-425. Poisoning.**

~~It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.~~

~~(Ord. 2007-344, 03 Apr 2007)~~

#### **Sec. 5-426. Injury by Motorists.**

~~1. Every operator of a motor or other self-propelled vehicle upon the streets and ways shall immediately, upon injuring, striking, maiming or running down any animal, give aid as is reasonably able to be rendered. In the absence of the owner, he shall immediately notify the Director, furnishing sufficient facts relative to the injury.~~

~~2. Every such operator shall remain at or near the scene until the appropriate authorities arrive, and upon the arrival of the appropriate authorities, the operator shall immediately identify himself to them. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or Animal Care and Control and notifying the Director. The animal shall be deemed an abandoned animal within the meaning of Section 5-2 of this chapter. This provision does not apply to operators of emergency vehicles.~~

~~(Ord. 2007-344, 03 Apr 2007)~~

#### **Sec. 5-427. Keeping of Diseased or Painfully Crippled Animals.**

~~It is unlawful to have, keep or harbor any animal which is infected with any dangerous or incurable or painfully crippling condition except as provided in this chapter. The Director may impound the diseased or painfully crippled animal in accordance with the provisions of this chapter. All such animals impounded, following examination and approval by a veterinarian may be destroyed humanely as soon thereafter as is conveniently possible. In the case of destruction of an animal, the Director shall not be required to give any of the notices provided in this chapter. This subsection shall not be construed to include veterinary hospitals or animals under active veterinary care.~~

~~(Ord. 2007-344, 03 Apr 2007)~~

#### **Sec. 5-428. Animal Fights.**

~~It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one (1) or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.~~

~~(Ord. 2007-344, 03 Apr 2007)~~

#### **Sec. 5-429. Confining or Crating of Fowl.**

~~It is unlawful for any person to confine, or the Director to confine and impound any wild or domestic fowl or bird unless the following provisions are made:~~

- ~~1. Proper feeding;~~
- ~~2. Furnishing of water to the fowl or bird;~~
- ~~3. Provisions are made that the crate, box or other enclosure in which the fowl or bird is confined or impounded permits the fowl or bird to stand in a naturally erect position.~~

~~(Ord. 2007-344, 03 Apr 2007)~~

**Sec. 5-430. Birds.**

It is unlawful to willfully kill any bird that is an endangered or protected species, or to molest or rob the nest of a bird that is an endangered or protected species.  
(Ord. 2007-344, 03-Apr 2007)

**Sec. 5-431 422. Leg hold Traps Prohibited.**

It shall be unlawful for any person to set steel-jawed leg hold traps within the limits of the City of Aztec.  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-432 423 to 5-450. Reserved.****DIVISION 3. NUISANCES****Sec. 5-451. Animals Running at Large.**

1. It is unlawful for the owner of an animal to cause or allow the animal to run be at large in or on any public property or any other property without the permission of the owner of the property.
2. It is unlawful to permit dogs in the streets or public places unless on a secure leash and under the immediate physical control, not voice control, of the person having custody thereof. No dog is allowed upon a public playground or on the premises of a public swimming pool or water-park or upon a school yard.
3. Any animal running at large in violation of this subsection may be which has been taken picked up and impounded by the an Animal Control Officer or otherwise delivered to the Aztec Animal Shelter facility for an animal at large violation shall be subject to mandatory spay or neuter at the owner's expense, and no such animal shall leave the Animal Shelter facility without having been spayed or neutered (the owner may take their pet to their personal Veterinarian for spay/neuter and bring proof of sterilization within 30 days) and all fees having been paid by the animal's owner. Or the owner may apply for an Intact Animal Permit pursuant to the provisions of Article VII, Division 2, section 5-721 of this Chapter. A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the Animal Control Officers to contact the owner.
4. The provisions of paragraph 3 above shall apply to any such animal picked up in San Juan County, New Mexico and impounded at the Aztec Animal Shelter facility, whether the animal was picked up within or outside the city limits of Aztec, New Mexico.
5. The Animal Control Officers have the right to impound domestic animals that are destroying public or private property or endangering the welfare of any person or animal that is lawfully on public or private rights-of-way. Any animal in violation of this subsection is declared to be a nuisance, a menace to the public health and safety and shall be impounded
6. The Animal Control Officers shall only pick up diseased and/or injured wildlife, upon the advice of the State of New Mexico Department of Game and Fish.

(Ord. 2007-344, 03 Apr 2007)

### **Sec. 5-452. Animals Disturbing the Peace.**

No person shall allow an animal in his possession or control to persistently or continuously bark, howl or make noise common to its species, or otherwise to disturb the peace and quiet of the inhabitants of the city at inappropriate hours between the hours of 11:00 pm and 6:00 am. Nor keep or maintain an animal in a manner which produces noxious or offensive odors or otherwise endangers the health and welfare of the inhabitants of the city.

(Ord. 2007-344, 03 Apr 2007)

### **Sec. 5-453. Animal Defecation; Cleanup.**

It is unlawful for the owner of an animal to permit, either willfully or through failure to exercise due care or control, the animal to defecate upon public property or upon any private property other than the property of the owner of the animal without thoroughly removing and disposing of the feces.

(Ord. 2007-344, 03 Apr 2007)

### **Sec. 5-454. City Parks.**

Animals will be prohibited from running freely within city parks posted "Animals Prohibited". In addition, it will be a violation of this chapter for anyone to have an animal in his possession or to allow an animal which he owns to be in such area if such park has posted "Animals Prohibited."

(Ord. 2007-344, 03 Apr 2007)

### **Secs. 5-455 454 to 5-460. Reserved.**

## **DIVISION 4. MISCELLANEOUS**

### **Sec. 5-461. Sale or Gift of Animals.**

- Use of Public Property.** No person shall display, sell, offer for sale, barter, auction, give away, or otherwise dispose of an animal upon a street, sidewalk, Public Park, public right of way or other public property.
- Use of Private Property.** No person shall sell, offer for sale, barter or auction a dog or cat upon private property without first obtaining a valid breeder permit. or paying a litter fee. No person shall give away a dog or cat upon private property without first obtaining the written permission of the owner or manager of the property.
- Rabbits or Fowl.** No person shall sell, offer for sale, barter or give away to any individual or household rabbits or fowl under four weeks of age. Nothing in this section shall be construed to prohibit the raising of such rabbits and fowl by a private individual for his personal use or consumption, provided that he shall maintain proper care and housing for the animals while they are in his possession.
- Premiums and Novelties.** No person shall offer a live animal as an incentive to purchase merchandise or as a premium, prize, award, or novelty.

~~5. In the event the owner cannot be contacted or expresses no interest in reclaiming the animal within five (5) days after contact or efforts to contact, Animal Care and Control may dispose of the animal in any reasonably humane manner.~~  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-~~466~~ 464. Poultry.**

Any person who keeps or causes to be kept any poultry within the corporate limits of the city shall keep such poultry in a pen or similar enclosure preventing their roaming at large. Any such poultry ~~running~~ at large may be impounded by Animal Care and Control. It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-~~467~~ 465 to 5-500. Reserved.**

5. **Turtles.** No person shall offer for sale, sell, and barter or give away turtles except in conformance with appropriate federal regulations.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-462. Slaughterhouses and Slaughtering.**

~~It is unlawful for any person to keep a slaughterhouse or to slaughter any domestic or wild animal within the City limits in a residential area.~~  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-463 462. Animals on Unenclosed Premises.**

It is unlawful for any person to chain, stake out, graze or herd any animal, including, but not limited to, a dog, on any unenclosed premises in such a manner that the animal may go beyond the property line.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-464 463. Unlawful Retention of Stray Animals.**

If a person does not have the knowledge and consent of the owner of an animal, then that person shall report the possession of the animal to Animal Care and Control no later than 24 hours after first coming into possession of the animal. The person shall give his name and address, a description of the animal, the circumstances under which he came into possession of the animal and the current location of the animal. He shall immediately surrender the animal to the Animal Control Officer upon demand.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-465. Confining and Removing of Animals in Motor Vehicles.**

~~No person having charge or custody of an animal, as owner or otherwise, shall place or confine the animal or allow the animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or wellbeing of the animal due to heat, lack of food or drink, or other circumstances as may reasonably be expected to cause suffering, disability or death. In the event an Animal Control or Peace Officer who finds an animal in a motor vehicle in violation of this section, the Animal Control Officer may do the following:~~

- ~~1. Enter the motor vehicle if necessary to remove the animal. The Officer removing the animal shall take the animal to Animal Care and Control or other place of safe keeping.~~
- ~~2. If a vehicle is entered, left unsecured and cannot be re-secured, an Animal Control or Peace Officer shall stay with the vehicle until the owner arrives.~~
- ~~3. In the event the person having custody cannot be contacted, the Officer shall leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address where the animal may be claimed by the owner.~~
- ~~4. The animal will be surrendered to the owner if the owner claims the animal within five (5) days from the time the animal was impounded. The owner shall pay all reasonable charges that have accrued for the maintenance of the animal.~~

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**ARTICLE V. RABIES CONTROL**

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**Sec. 5-501. Rabies Vaccination Required.**

1. It is the duty of all persons owning or keeping a dog or cat over the age of ~~three (3)~~ **four (4)** months to have such animals vaccinated against rabies. The rabies vaccination ~~shall be given in an amount sufficient to provide immunity from rabies for one (1) year and~~ shall be administered by a licensed Veterinarian **as required by state law**. A **rabies** certificate from a licensed Veterinarian shall be accepted as evidence of vaccination. ~~The Director may require other animals to receive annual rabies vaccinations~~

~~The Veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated the date of vaccination and the expiration date of the period of immunity.~~

2. It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of **rabies** vaccination upon demand by the Director or by any Animal Control Officer.
3. A current rabies tag shall be securely affixed to the collar or harness of all dogs and cats and shall be worn by all dogs and cats. **However, a rabies tag will not be accepted as proof for current rabies vaccine unless verified by the matching certificate.** ~~except when the dog or cat is confined in a permitted kennel or veterinary hospital, is appearing in a dog or cat show approved by the animal control officer, or is being trained and the person who is training the dog or cat shall have readily available in his personal possession the valid license tag for each dog or cat being trained and shall immediately display such upon request by the Animal Control Officer.~~  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-502. Human Exposure; Animals with Symptoms of Rabies.**

1. ~~When any person is bitten by an animal, it is the duty of such person or his parent or guardian, or any person having knowledge of the whereabouts of the animal, to immediately notify Animal Care and Control or the field office of the health services division.~~
2. ~~Any dog or cat which bites or otherwise exposes a person to rabies shall be either destroyed and the head sent to the laboratory for rabies testing or confined immediately at the owner's expense at a place and in a manner designated by the Animal Control Officer and approved by the field health office.~~
3. ~~Any dog or cat that bites any person shall be quarantined and impounded, or, at the request of and at the expense of the owner, placed in a veterinary hospital, for a period of not less than ten (10) days. The owner of any dog or cat that has bitten a person may voluntarily deliver the dog or cat to Animal Care and Control; otherwise there shall be an assessment against the owner if Animal Care and Control must pick up the dog or cat (as established in Article V of Chapter 16 – Fee Schedule). However, if the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the animal control officer may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the Animal care and Control Director. If the dog or cat is impounded in the animal shelter for~~

~~observation as a result of a, dog or cat bite incident, there shall be a per day charge for board, and a rabies observation fee assessed as established in Article V of Chapter 16 – Fee Schedule.~~

- ~~4. If it is determined that the dog or cat is infected with rabies or other dangerous, contagious and infectious disease, it shall be the duty of the enforcement agent to destroy such dog or cat in as humane a manner as is reasonably possible. If, at the end of the quarantine or impoundment, the Animal Care and Control Director is convinced that the dog or cat is free from such diseases, the dog or cat shall be released to the owner.~~
- ~~5. Any skunk, bat, ferret, raccoon, coyote, bobcat or other wild animal not born or reared in captivity, with the exception of rodents (Order Rodentia) or rabbits (Order Lagororpha), which bites or otherwise exposes a person to rabies shall be destroyed immediately and the head sent to the laboratory for testing. Rabbits and rodents do not normally transmit rabies.~~
- ~~6. Except for rodents and rabbits, the head of a susceptible animal suspected of having rabies, which bites or otherwise exposes a person to rabies and either dies or is destroyed within ten (10) days following the exposure, shall be immediately sent to the laboratory for rabies testing. Rodent and rabbit specimens may be submitted with the consent of the district health officer of the epidemiology unit of the health services division. A rabies submission form and instructions for shipping are available upon request from the scientific laboratory division of the health and environment department.  
(Ord. 2007-344, 03 Apr 2007)~~

#### **Sec. 5-~~503~~ 502. Rabies Quarantine Area.**

Any District Health Officer of the state may declare a quarantine against rabies within the health district or any part thereof when rabies have been determined to exist to the extent that it is a danger to public health. Upon written findings of such danger and approval of the Division Director, all animals specified in the order shall be confined as directed by the District Health Officer. After reasonable effort to apprehend any dog or cat ~~running~~ at large and uncontrolled by its owner during a period of quarantine, any Animal Control Officer or Peace Officer may destroy the dog or cat and properly dispose of the body. The District Health Officer may order other measures as may be necessary to prevent the spread of rabies. Quarantine shall not be removed except by order of the District Health Officer.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-~~504~~ 504. Animals Exposed to Rabies.** When circumstances indicate an animal has been bitten by a known rabid animal, the following procedures shall apply:

- ~~1. Dogs or cats bitten by a known rabid animal should be destroyed immediately. If the owner is unwilling to have this done, the unvaccinated animal shall be vaccinated immediately with an approved rabies vaccine and placed in strict confinement and isolation at the owner's expense in a manner directed by the Animal Control Officer and approved by the District Health Officer for a six-month period. It shall be revaccinated with an approved rabies vaccine one (1) month before being released. If the dog or cat has been previously vaccinated with an approved rabies vaccine and is within the recognized period of immunity for the vaccine, it shall be revaccinated immediately and confirmed and isolated at the owner's expense for at least sixty (60) days in a manner directed by the Animal Care and Control Officer and approved by the District Health Officer of the State.~~

2. Domestic livestock known to have been bitten by a rabid animal should be destroyed immediately. If the owner is unwilling to have this done, the animal shall be vaccinated with a rabies vaccine approved for use in the particular species of animal and must be confined and isolated in a manner approved by the district health officer for a six month period. The exposed animal may be killed and its tissue eaten if the animal is slaughtered within seven (7) days after being bitten. The person who slaughters an exposed domestic animal should wear gloves. No animal tissue shall be retained for consumption from areas proximate to the bite.
3. Other animals susceptible to rabies known to have been bitten by a rabid animal shall be destroyed immediately as directed by the District Health Officer of the State.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-505. Possession of Skunks.** Due to the presence of rabies in skunks and the hazard to the public health of rabies developing in skunks kept as pets, no person shall import into the state, nor capture with intent to keep as a pet, nor buy, sell, trade nor possess any skunk except in connection with a recognized zoological park or research institution or by permit from the department. Permits may be approved only for skunks born in captivity. Application for permit shall be made on a form provided by the state.  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-506 503 to 5-600. Reserved.**

**ARTICLE VI. VIOCIOS OR DANGEROUS ANIMALS****Sec. 5-601. Vicious Animals.**

1. No person shall keep or harbor a vicious animal, nor allow it to run at large within the city.
2. Such animals shall be immediately impounded by Animal Care and Control.
3. Animal Care and Control Officer shall humanely destroy a vicious animal or require the owner either to provide proof acceptable to Animal Care and Control that the animal has been destroyed or surrender the animal to Animal Care and Control for humane destruction.
4. The members of the Police Department or Animal Care and Control are authorized to euthanize any vicious animals of any kind when it is necessary for the protection of any person or property.
5. Exceptions:
  - (1) The dog was used by a law enforcement official for legitimate law enforcement purposes;
  - (2) The threat, injury or damages was sustained by a person or domestic animal who was:
    - (a) Trespassing upon premises occupied by the owner or the dog;
    - (b) Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
    - (c) Committing or attempting to commit a crime; or
  - (3) The dog was:
    - (a) responding to pain or injury;
    - (b) protecting itself or its offspring; or
    - (c) Protecting or defending a human being or domestic animal from attack or assault.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-602. Impoundment, Destruction.**

1. The Animal Control Officer and all police Officers shall take up and impound any animal which is a vicious animal. In the event a vicious animal cannot be taken up and caught by the Animal Control Officer or any Police Officer without such Animal Control Officer or Police Officer exposing himself to danger of personal injury from such animal, the Animal Control Officer or any Police Officer may forthwith destroy such animal without notice to the owner, keeper or possessor thereof.
2. Once an animal is ruled vicious by a court of law, the animal shall be destroyed at the owner's request and expense, by a licensed Veterinarian or the Animal Care and Control staff.
3. During court appeals, the animal will be placed in a Veterinary clinic or at Animal Care and Control at the owner's expense.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-~~603~~ 601. Dangerous Animals.**

1. It is conducive to the promotion of the health and general welfare of the inhabitants of this city to require permits for dangerous dogs, and to establish regulations for the proper containment of the dogs.
2. No person shall keep or harbor a dangerous animal within the city limits without a permit;
3. Nor allow it to ~~run~~ be at large within the city limits.
4. Exceptions:
  - (1) The dog was used by a law enforcement official for legitimate law enforcement purposes;
  - (2) The threat, injury or damages was sustained by a person or domestic animal who was:
    - (a) Trespassing upon premises occupied by the owner or the dog;
    - (b) Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
    - (c) Committing or attempting to commit a crime; or
  - (3) The dog was:
    - (a) Responding to pain or injury;
    - (b) Protecting itself or its offspring; or
    - (c) Protecting or defending a human being or domestic animal from attack or assault.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-~~604~~ 602. Permit Requirements.**

1. ~~Unless~~ A dangerous dog permit ~~shall be required is in effect~~ for each property where dangerous dogs are to be ~~used kept. they shall not be used.~~ Procedures for permit application, inspection of property, and issuance of dog identification tags will be established by the Director.
2. Permit applications shall include the following information:
  - (1) The owner name, address and telephone number of the property where dangerous dogs are to be kept;
  - (2) The name, address and telephone number of alternate contact who can be reached at any time during the day or night;
  - (3) The location where the dog or dogs are to be housed on the property; and
  - (4) Any other information that the Director deems necessary by rule and regulation. Permit holders shall notify ~~the~~ Animal Care and Control if any information recorded as part of

the permit application is changed during the course of the period for which the permit is issued.

3. All dogs deemed dangerous by Animal care and Control will be spayed or neutered before any permits are issued.
4. The Director or the designee shall inspect the property where the dangerous dog is to be housed when the dangerous dog permit is applied for and when it is renewed.
5. If the inspection reveals that all the requirements are met, a fee (as established in Article V of Chapter 16 – Fee Schedule) shall be paid and a dangerous dog ~~license~~ permit and special dangerous dog identification tags for the approved dog shall be issued by Animal Care and Control. The permit shall be displayed at the approved property and an identification tag shall be affixed to the collar of each dog.
6. The dangerous dog permit shall be valid for one (1) year and must be renewed annually within thirty (30) days after the renewal date.
7. Whenever there is a dangerous dog on the premises, the standards of this subsection, in addition to the other requirements and regulations, shall be complied with, as follows:
  - (1) Housing shall have anti-escape fences completely surrounding it or be an anti-escape building sufficient to house dangerous dogs.
  - (2) All gates and entrances to the area where the dangerous dog is housed shall be locked when not in use.
  - (3) Additional measures found necessary by the Director shall be taken to protect the public from accidental contact with any dangerous dog.
  - (4) Where dangerous dogs are kept outside, the area must be enclosed by at least a six-foot chain link fence or other fence of equal security, wall or adequate wood fence, to which anti-escape devices have been added. The adequacy of the fencing shall be subject to the approval of the director.
  - (5) In order to control noise, the director may require a sight barrier which breaks the dog's line-of-sight.
  - (6) Where dangerous dogs are housed inside, exterior glass must be adequate, or additional protective measures must be taken by the owner, as required by the Director, to prevent the dog from jumping through it.
  - (7) The building and yard in which a dangerous dog is housed must be posted with bilingual, English and Spanish, or visual dangerous dog signs, approved by the director that shall not be more than two hundred feet (200') apart, and shall be at all property comers and at every entrance into the area
  - (8) For dangerous dogs that are transported in vehicles, measures prescribed by rule and regulation of the Director must be taken to protect the public from accidental contact with a dangerous dog.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-605 603 to 5-700. Reserved.**

## ARTICLE VII. **PERMITS PERMITTED PREMISES, REGULATIONS, LICENSES**

### DIVISION 1. IN GENERAL

#### **Sec. 5-701. Expiration of All Permits.**

1. Permits shall expire one year after the date of issuance of the permit. An application for renewal shall be filed with Animal Care and Control 30 days before the date of expiration.
2. Failure to renew permits as specified shall result in the expiration of the permit or in the assessment of a late fee in addition to the cost of renewing the permit, as **established in Article V of Chapter 16 Fee Schedule.** ~~deemed appropriate by the Animal Care and Control Officer.~~

(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-702. Transferability of Permits.**

1. No permit ~~except a guard dog permit~~ is transferable from one person or place to another person or place. ~~A guard dog permit may be transferred to a new location operated by the same person during the permit year, provided that advance notice of at least five working days shall be given to Animal Care and Control for each transfer of a guard dog permit.~~
2. ~~Permit transfers shall not be effective until Animal Care and Control has inspected and approved the facilities at the new location and recorded the information required on the permit application.~~

(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-703. Notice of Changes.**

A permit holder shall notify Animal Care and Control of any changes ~~in operations~~ which may affect the status of the permit and shall keep Animal Care and Control informed of all changes in name, location, address, home and business telephone number, of the site and activities covered by the permit.

(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-704 to 5-720. Reserved.**

### DIVISION 2. INTACT ANIMAL

#### **Sec. 5-721. General**

1. No person may own or harbor an Intact Animal within the city limits of Aztec, unless the owner of said animal has acquired a permit from Animal Care & Control.

2. Any animal in San Juan County, picked up by Animal Control or otherwise delivered to the Aztec Animal Shelter facility will be required to be spayed or neutered before the animal leaves the facility (or the owner may take the animal to their personal Veterinarian and bring us proof of the sterilization) or the owner will be required to get an Intact Animal Permit, regardless of the jurisdiction where the animal came from.
3. For residence of the City of Aztec the Intact animal permit does not allow for breeding of any animals. A Breeder permit must be purchased separately if that is the intent for the animal.
4. Most owners, regardless of the jurisdiction where they reside would be allowed to apply for the Intact Animal Permit. The exception would be animals that spend the majority of their life at the end of a restraint device (more than 4 hours a day); no permits will be granted for those animals.
5. The owner must pay the yearly permit fee as established in Article V of Chapter 16 Fee Schedule.

#### **Sec. 5-722. Permit Revocations.**

1. An Intact Animal Permit will be revoked immediately and the owner will be required to get the animal spayed or neutered if one of the following violations occurs:
  1. The animal is impounded for being at large after receiving the permit.
  2. The animal is at large after receiving the permit
  3. There is a reported bite by the permitted animal.
  4. There is a reported unprovoked attack upon another animal
  5. The animal was reported to be chasing livestock.

#### **Sec. 5-723 Repeal of Decision.**

If any affected party wishes to appeal the Animal Care and Control Director's decision regarding a permit, the party may request a hearing before the City Commission. A written request for hearing must be filed at the Office of the City Clerk within five days of receipt of the Animal Care and Control Director's decision.

#### **Secs. 5-724 to 5-730. Reserved.**

### **DIVISION 3. KENNEL PERMIT (MULTIPLE ANIMALS)**

#### **Sec. 5-731. Limit on the Number of Dogs and Cats.**

1. It is unlawful for any person to be the owner of, to keep, to or to assist in keeping more than five (5) dogs, cats, or any combination of dogs and cats, in the City except in conformance with a kennel permit issued under this section.

2. A kennel permit may be issued by Animal Care and Control for the keeping of up to ten (10) dogs, cats, or combination under the following conditions:
  - (1) The applicant for the permit must show a plot plan of the premises where the animals are to be kept; identify the numbers of cats and dogs which are proposed to be kept, including the numbers of which are to be kept predominantly indoors and which are to be kept predominantly or entirely outdoors; and identify the number and approximate location of any outdoor shelters on the premises.
  - (2) In a residential zone, the area of the permitted Kennel site shall be limited to 10% of the total area of the premises.
  - (3) Within the area of a kennel site there will be:
    - (a) 75 square feet of area shall be provided for each animal weighing under 30 pounds;
    - (b) 100 square feet for each animal weighing between 30 and 49 pounds; and
    - (c) 125 square feet for each animal weighing 50 pounds or more.
3. Payment of the permit fee per year as established in Article V of Chapter 16 – Fee Schedule.
4. Each animal must be spayed or neutered and must be current on rabies vaccinations as prescribed by State Law.
5. No person or household will be issued a permit for more than four (4) wolf hybrids, coyote hybrids or any combination thereof
6. The holder of a kennel permit understands that Animal Control will make random inspections with a 48 hour notice.
7. Each holder of a kennel permit shall comply with all provisions of this Chapter and shall keep the premises for which the permit is issued free from any obnoxious, offensive, or unsanitary condition.

**Sec. 5-732. Revocation of Permit.**

1. Any permit issued under this section will be revoked if any if any the following conditions exist:
  - (1) The permitted has violated any ordinances of this Chapter or New Mexico laws relating to the keeping, care or use of any animal;
  - (2) The permitted has failed to pay the fee as established in Article V of Chapter 16 Fee Schedule.;

- (3) The permitted refuses to allow inspection, on forty-eight (48) hours written notice, of any animal covered by the permit or the premises in which the animal is kept

### **Sec. 5-733 Repeal of Decision.**

If any affected party wishes to appeal the Animal Care and Control Director's decision regarding a permit, the party may request a hearing before the City Commission. A written request for hearing must be filed at the Office of the City Clerk within five days of receipt of the Animal Care and Control Director's decision.

### **Secs. 5-734 to 5-740. Reserved.**

## **DIVISION 4. BREEDER PERMIT**

### **Sec. 5-741. Requirements.**

1. No owner of any dog or cat within the City limits shall cause or allow the dog or cat to breed without first obtaining a Breeder Permit.
2. Animal Care and Control shall administer a permit program to allow the breeding of cats and dogs consistent with the terms set forth in this Article.
3. The payment of a breeding permit fee per year as established in Article V of Chapter 16 – Fee Schedule.
4. A permit may be issued by Animal Care & Control to any person involved in controlled breeding of dogs and cats which are registered with a nationally or internationally recognized animal registry organization such as:
  - (1) AKC – American Kennel Club or a group recognized by AKC
  - (2) CFA – Cat Fanciers Association
5. All dogs or cats intended for breeding shall be current on all vaccinations including rabies as prescribed by state law.
6. All breeding permits shall contain the following terms and conditions and shall be subject to all of the following requirements:
  - (1) No offspring of the animal which has been bred may be sold or given away until the offspring has reached the age of at least eight (8) weeks and been immunized against common diseases.
  - (2) If within one year of placement a new owner becomes unable or unwilling to continue ownership and responsibility for an animal, the permit holder shall assist in placement of the animal. If no suitable placement can be found within six (6) months, the permit holder shall accept return of the animal if healthy, and shall become fully responsible for its care.

- (4) Any breeding permit holder advertising to the public the availability of any animal for adoption or sale shall prominently display the holder's breeding permit number. The permit holder shall also provide the permit number to any person to whom any animal is sold or adopted.
- (5) Within the area of a Breeder Permit site there will be:
  - (a) 75 square feet of area shall be provided for each animal weighing under 30 pounds;
  - (b) 100 square feet for each animal weighing between 30 and 49 pounds; and
  - (c) 125 square feet for each animal weighing 50 pounds or more.
  - (d) Sufficient area for birthing such as whelping box, and a quiet, private area.
- (6) Animal Care and Control shall have the right to inspect the areas used by any breeding permit holder for the keeping of animal offspring, to determine compliance with the provisions of this Article.

**Sec. 5-742. Enclosure for Breeding Animals.**

It is unlawful for any person to let any female animal breed to any male animal, except within an enclosure so arranged as to obstruct the animals completely from the view of all who have no proprietary interest in the breeding of the animals.

**Sec. 5-743. Restrictions.**

An owner shall not advertise sell, barter, exchange or give away any dog or cat within municipal boundaries unless the breeder permit number is displayed legibly. An owner shall furnish the breeder permit number to any prospective recipient requesting the number.

**Sec. 5-744. Revocation of Permit.**

1. Any permit issued under this section will be revoked if any if any the following conditions exist:
  - (1) The permitted has violated any ordinances of this Chapter or New Mexico laws relating to the keeping, care or use of any animal; or
  - (2) The permitted has failed to pay the fee as established in Article V of Chapter 16 Fee Schedule; or
  - (3) The permitted refuses to allow inspection, on forty-eight (48) hours written notice, of any animal covered by the permit or the premises in which the animal is kept.

**Sec. 5-745 Repeal of Decision.**

If any affected party wishes to appeal the Animal Care and Control Director's decision regarding a permit, the party may request a hearing before the City Commission. A written request for hearing must be filed at the Office of the City Clerk within five days of receipt of the Animal Care and Control Director's decision.

**Secs. 5-746 to 5-800. Reserved.****DIVISION 2. PERMITTED PREMISES****Sec. 5-721. Purpose.**

The city declares it to be conducive to the promotion of the health and general welfare of the inhabitants of the city to require a Professional Animal Care permit to operate a kennel, grooming parlor, or pet shop, and to impose certain regulations and inspection fees on those engaged in operating, maintaining or owning a kennel, grooming parlor, or pet shop.

(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-722. Permit Required.**

1. No person shall operate a kennel, grooming parlor, pet shop, hobby breeder, Animal Fancier's site, guard dog site or dangerous dog site without a current and valid professional animal care permit. Such permit is issued by Animal Care and Control. No person shall breed or allow to be bred a dog or cat for which an intact animal permit has been issued.
2. No person shall receive, purchase, own, or keep an exotic or wild animal without first obtaining an exotic or wild animal permit issued by Animal Care and Control.
3. No person shall keep, conduct or operate an animal exhibit without first obtaining an animal exhibit permit issued by Animal Care and Control.
4. Animal Care and Control may collect fees for inspections related to the issuance, renewal and maintenance of permits.
5. On a monthly basis, permitted premises will provide to the animal control officer, in writing, the names, addresses, and types of exotic animals sold during the preceding month.
6. An owner advertising for sale the litter from a hobby breeder shall list a hobby breeder permit number in all ads.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-723. Application Review.**

1. Individuals who wish to apply for a permit shall file on forms provided by Animal Care and Control. The application shall require information sufficient to assure Animal Care and Control that the applicant has knowledge and facilities adequate to care for the animals in a manner that protects the public and the animals.

2. When a permit is applied for, an inspection of the property, grooming parlor, pet shop or kennel shall be conducted by the Animal Care and Control Director to determine compliance with this chapter. If inspection reveals that the premises comply with the law and regulations, a professional animal care permit will be issued. The permit is only valid for the approved premises. Permitted, who keep animals confined, shall, at the option of the permitted, be exempt from the animal license requirements of this chapter and will not be issued any license tags unless the required animal license fee is paid.
3. The applicant shall file with the Animal Care and Control proof of compliance with all applicable city, state and federal requirements to the satisfaction of Animal Care and Control.
4. A Fancier's permit will not be issued for any animal other than a dog or cat. The applicant shall submit sterilization proof to the Animal Care and Control on all animals listed on the permit before final approval of the permit.
5. Permits are not transferable from one (1) person to another person or place. A valid permit shall be posted in a conspicuous place in every kennel, grooming parlor, or pet shop.
6. The *Professional Animal Care Permit* shall expire December 31 of each calendar year, and shall be renewed by February 1 of the following year. New professional animal care permits, but not a renewal, shall be issued with professional animal care permit fees prorated on a semiannual basis. Professional animal care fees shall be established by the Director and approved by the Governing Body of the City.  
(Ord. 2007-344, 03-Apr-2007)

#### **Sec. 5-724. Specifications and Maintenance of Facilities.**

1. Animal housing facilities shall be constructed of nontoxic materials and in a structurally sound design. Interior floors shall be smooth, easily cleanable construction and impervious to water. The facility shall be kept in good repair and kept clean and sanitary at all times, so as to protect the animals from disease and injury.
2. Animals maintained in pens, cages or runs for periods exceeding twenty-four (24) hours, shall be provided with adequate space to prevent overcrowding and to maintain normal exercise, according to species.
3. Indoor housing shall be provided for in all pet shops, grooming parlors and commercial kennels. These facilities shall be sufficiently temperature controlled and ventilated to provide for the animal's comfort and health.
4. Sufficient lighting shall be provided by either artificial or natural means.
5. Outside housing shall be sufficient to protect animals from sunlight, rain, snow or cold weather that may be detrimental to the health of animals.
6. Provisions shall be made for the removal and proper disposal of animal feces and food waste, soiled bedding, dead animals and debris. Disposal facilities shall be operated in a manner which will minimize vermin infestation, odors and disease.

7. ~~Adult animals shall be segregated by sex, except where otherwise indicated for health, welfare or breeding purposes.~~
8. ~~Any vicious, diseased or injured animals and animals that have bitten a person shall be individually caged when on the premises of a kennel, grooming parlor, or pet shop.~~
9. ~~Animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers shall be kept clean.~~
10. ~~Each animal shall be observed daily by the animal caretaker in charge or his representative. Sick, diseased, injured, lame or blind animals shall be provided with proper veterinary care. Any person operating or employed at a kennel, grooming parlor, or pet shop, who observes an animal which he suspect of being rabid shall at once notify the Animal Care and Control and then segregate such animal for a period of ten (10) days, unless examined and released by written statement of a Veterinarian and then only at the discretion of the Director.~~
1. ~~The number of adult dogs or cats, or any combination thereof, which a hobby breeder permit or Animal Fancier's Permit holder may keep is limited by the following factors:~~
  - (1) ~~In a residential zone, the area of the permitted hobby breeder site or multiple animal sites shall be limited to 10% of the total area of the premises.~~
  - (2) ~~Within the kennel area of a hobby breeder site or multiple animal site:~~
    - (a) ~~75 square feet of area shall be provided for each animal weighing under 30 pounds;~~
    - (b) ~~100 square feet for each animal weighing between 30 and 49 pounds; and~~
    - (c) ~~125 square feet for each animal weighing 50 pounds or more.~~

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(Ord. 2007-344, 03-Apr-2007)

**Sec. 5-725 . Access and Inspections.**

1. ~~Upon presentation of proper identification, and at any reasonable time, Animal Care and Control shall be allowed to enter any permitted kennel grooming parlor, or pet shop for the purpose of making inspections to determine compliance with this chapter. The person in charge of the permitted premises shall be allowed to accompany Animal Care and Control on his or her inspection. Animal Care and Control shall be allowed to examine all records pertinent to the origin and care of any animals located at, or emanating from any permitted premises.~~
2. ~~Whenever Animal Care and Control inspects a premises, Animal Care and Control shall prepare a written inspection report which shall state whether or not the permitted premises is in compliance with and in violation of the requirements of this article; if the premises is found not to be in compliance, the report shall specify the nature of the non-compliance. Animal~~

Care and Control and the person in charge of the permitted premises shall sign the inspection report. A copy of the inspection report shall be furnished to the person in charge. (Ord. 2007-344, 03 Apr 2007)

**Sec. 5-726. Permit Violations; Suspensions and Revocations.**

1. If the Animal Care and Control Director makes an inspection of a, grooming parlor, pet shop or shelter and discovers a violation of this chapter, he or she shall notify the permit holder, or operator, of the violation by means of an inspection report form or other written notice. The notification shall:
  - (1) Set forth the specific violation found;
  - (2) Establish a specific and reasonable period of time for the correction of the violation found;
  - (3) State that failure to comply with any notice issued in accordance may result in immediate suspension of the permit; and
  - (4) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the director, within five (5) days.
2. Notices provided for under this subsection shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of the notice shall be filed with the records of the Animal Care and Control.
3. Permits may be suspended temporarily by the Animal care and Control director for failure of the holder to comply with the requirements of this chapter or other applicable laws or regulations. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this chapter, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the director by the permit holder. Notwithstanding the other provisions of this chapter, when the Animal Care and Control Director finds unsanitary or other conditions in the operation of a kennel grooming parlor, pet shop or shelter, which, in his judgment, constitute a substantial hazard to public health, he may, without warning or hearing, issue a written notice to the permit holder or operator citing such conditions and specifying the corrective action to be taken. If deemed necessary, the order shall state that the permit is immediately suspended and all operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately.
4. For serious or repeated violations of any of the requirements of this chapter, or for interference with the Director in the performance of his or her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the director. Prior to such action, the Director shall notify the permit holder, in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the Director by the permit holder within the five (5) day

period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(Ord. 2007-344, 03-Apr-2007)

### **Sec. 5-727. Repeal of Decision.**

If any affected party wishes to appeal the Animal Care and Control Director's decision regarding a permit application, the party may request a hearing before the City Commission. A written request for hearing must be filed at the Office of the City Clerk within five days of receipt of the Animal Care and Control Director's decision.

(Ord. 2007-344, 03-Apr-2007)

### **Secs. 5-728 to 5-730. Reserved.**

## **DIVISION 3. FANCIER'S PERMIT (MULTIPLE ANIMAL)**

### **Sec. 5-731. Limit on the Number of Dogs and Cats.**

3. It is unlawful for any person to be the owner of, to keep, to cause to be kept, or to assist in keeping more than five (5) dogs, cats, or any combination of dogs and cats, in the City except in conformance with a Fancier's permit issued under this section.

4. A fancier's permit may be issued by Animal Care and Control for the keeping of up to ten (10) dogs, cats, or combination under the following conditions:

(1) The applicant for the permit must show a plot plan of the premises where the animals are to be kept; identify the numbers of cats and dogs which are proposed to be kept, including the numbers of which are to be kept predominantly indoors and which are to be kept predominantly or entirely outdoors; and identify the number and approximate location of any outdoor shelters on the premises.

(7) In a residential zone, the area of the permitted Animal Fancier Kennel site or multiple animal sites shall be limited to 10% of the total area of the premises.

(8) Within the area of a multiple animal site:

(e) 75 square feet of area shall be provided for each animal weighing under 30 pounds;

(f) 100 square feet for each animal weighing between 30 and 49 pounds; and

(g) 125 square feet for each animal weighing 50 pounds or more.

8. Payment of a permit fee per year as established in Article V of Chapter 16 — Fee Schedule.

9. Each holder of a fancier's permit shall comply with all provisions of this Article and shall keep the premises for which the permit is issued free from any obnoxious, offensive, or unsanitary condition.

(Ord. 2007-344, 03-Apr-2007)

**Sec. 5-732. Revocation of Permit.**

2. Any permit issued under this section may be revoked if any if any the following conditions exist:
  - (1) The permitted has violated any City ordinances or New Mexico laws relating to the keeping, care or use of any animal;
  - (2) The permitted has failed to comply with any condition or requirement of the permit or has failed to pay any fee required by this Code;
  - (3) The permitted refuses to allow inspection, on forty-eight (48) hours written notice, of any animal covered by the permit or the premises in which the animal is kept; or
3. If, after investigation, Animal Care and Control concludes that there is probable cause to believe that one or more of the above grounds for revocation has occurred, he or she shall give written notice of proposed revocation, by first class mail or personal delivery to the licensee. This notice shall specify the grounds for proposed revocation of the permit and shall specify a time and date for an informal hearing to be held before Animal Care and Control. The date of the hearing shall be not less than five days after the notice is personally delivered or eight days after the notice is mailed. After the informal hearing, the permit may be continued in effect, modified, or revoked.
4. The permitted may appeal the decision of Animal Care and Control to the City Commission by written notice of the appeal within five (5) working days of the decision.  
(Ord. 2007-344, 03-Apr-2007)

**Secs. 5-733 to 5-740. Reserved.****DIVISION 4. HOBBY BREEDER AND LITTER PERMIT****Sec. 5-741. Requirements.**

- (1) No owner of any dog or cat within the City shall cause or allow the dog or cat to breed without first obtaining a breeding permit under this Article.
- (2) The City administers a permit program to allow the breeding of cats and dogs consistent with the criteria and according to the procedures in this Article.
- (3) The payment of a breeding permit fee per year as established in Article V of Chapter 16 Fee Schedule.
- (4) All breeding permits shall contain the following terms and conditions and shall be subject to all of the following requirements:
  - (1) No offspring of the animal which has been bred may be sold or given away until the offspring has reached the age of at least eight (8) weeks and been immunized against common diseases.

- (2) If within one year of placement a new owner becomes unable or unwilling to continue ownership and responsibility for an animal, the permit holder shall assist in placement of the animal. If no suitable placement can be found within six (6) months, the permit holder shall accept return of the animal if healthy, and shall become fully responsible for its care.
- (3) Any breeding permit holder advertising to the public the availability of any animal for adoption or sale shall prominently display the holder's breeding permit number. The permit holder shall also provide the permit number to any person to whom any animal is sold or adopted.
- (4) Animal Care and Control shall have the right to inspect the areas used by any breeding permit holder for the keeping of animal offspring, to determine compliance with the provisions of this Article.

(Code 2007, 5-741)

#### **Sec. 5-742. Penalty Fee.**

The owner who intentionally or unintentionally breeds dogs or cats and does not have a current hobby breeder's permit shall pay a litter fee for each litter as established in Article V of Chapter 16 — Fee Schedule. The fee may be refunded at the time proof of sterilization of the female animal is submitted and verified by Animal Care and Control no later than two months from the time the female dog or cat delivers a litter.

(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-743. Enclosure for Breeding Animals.**

It is unlawful for any person to let any female animal breed to any male animal, except within an enclosure so arranged as to obstruct the animals completely from the view of all who have no proprietary interest in the breeding of the animals.

(Ord. 2007-344, 03 Apr 2007)

#### **Sec. 5-744. Restrictions.**

An owner shall not advertise, sell, barter, exchange or give away any dog or cat within municipal boundaries unless the litter fee or hobby breeder permit number is displayed legibly. An owner shall furnish the litter fee or hobby breeder permit number to any prospective recipient requesting the number.

(Ord. 2007-344, 03 Apr 2007)

#### **Secs. 5-745 to 5-800. Reserved.**

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**ARTICLE VIII. POPULATION CONTROL SPAY AND NEUTER**


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**Sec. 5-801.-Mandatory Spaying and Neutering. Spay/Neuter**

No person shall own or harbor within the City of Aztec any cat or dog over the age of ~~six~~ **three** months which has not been spayed or neutered, unless:

1. That person holds either an Intact Animal Permit ~~to keep an unaltered dog or cat~~ or a **Breeders** Permit for breeding cats or dogs issued under Article VII of this Chapter; or
2. A veterinarian has certified, on a form prescribed by the City and kept by the owner, that by reason of the animal's age or health condition that spaying or neutering would be detrimental to the animal's health or that the animal is incapable of reproduction.  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-802 to 5-900. Reserved.**


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**ARTICLE IX. EXOTIC ANIMALS AND GUARD DOGS**


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**DIVISION 1. EXOTIC ANIMALS****Sec. 5-901. Wild or Exotic Animals.**

1. ~~It is unlawful to be in charge of, possess or own:~~
  - ~~(1) Any exotic animal or species prohibited by federal or state law;~~
  - ~~(2) Any exotic animal or species when kept in such numbers or in such a way as to constitute likelihood of harm to the animals themselves, to human beings or to the property of human beings, or which constitutes a public or private nuisance;~~
  - ~~(3) Bats, or~~
  - ~~(4) Skunks, except those owned by individuals on the effective date of this chapter and provided that any exotic animal permit is obtained for the skunks within sixty (60) days of the effective date.~~
2. ~~It is unlawful to receive, purchase, own or keep any exotic animal without first applying to and receiving from the director a permit to do so. Notwithstanding, those persons in possession of an exotic animal when they become residents of the city in the future or who possess the animal on the effective date of this chapter have a sixty (60) day period in which to apply for the permit before the penalty provisions of this chapter become enforceable.~~
3. ~~No person shall apply for an exotic animal permit without first obtaining any required state or federal permits.~~
4. ~~The application for a permit shall contain the name of the applicant; his address, the address of the proposed location of the exotic animal if different from the applicant's; a brief~~

description of the applicant's plan for keeping the exotic animal which shall include the species of animal, the number of individuals of each species, and a description of the housing facilities; a list of individuals qualified to care for the animal desired or that have agreed to advise or assist the applicant in the proper care and treatment of the animal and who would be willing to recommend the person applying for the permit; and the list of publications which the applicant has studied in order to qualify for a permit for the animal.

5. Upon receipt of the application, the Director shall inspect the facilities where the animal is to be housed and shall make whatever other investigations he deems necessary.
6. If the director approves the application, the initial exotic animal permit fee as established in Article V of Chapter 16 – Fee Schedule shall be paid and the permit issued. Whenever, in any given permit year, there are new exotic animals in a collection due to the reproduction of members of the collection or to replacement in the same number and zoological species as the members replaced, the new animals do not require an additional permit during the year, provided the director is notified in writing of the new exotic animals within thirty (30) days of acquisition. When a new exotic animal or collection is added, a new permit must be secured and a new fee shall be due and payable at the time of issuance of the permit and shall be a prerequisite of the issuance.
7. The exotic animal permit shall be valid for one (1) year, and must be reviewed within sixty (60) days after expiration and an inspection is required prior to the renewal of the permit. The annual fee for renewal of the permit is established in Article V of Chapter 16 – Fee Schedule. If, during the preceding year, more than one (1) initial permit has been issued an applicant, the former permits may be consolidated so that only one (1) renewal permit is required; provided, however, that the renewal date for the consolidated permit shall be the date of the issuance of the earliest initial permit. Animal Care and Control may deny the application for renewal for cause.
8. Individuals authorized to acquire an exotic animal shall, within fourteen (14) days of acquisition, submit to Animal Care and Control, a health certificate from a qualified veterinarian stating that the animal is in good health and has been vaccinated in accordance with applicable time schedules.
9. It is unlawful to receive, purchase, own or keep any exotic animal unless:
  - (1) Housing is sufficiently spacious, ventilated and temperature-controlled, clean and sanitary at all times;
  - (2) The exotic animal is provided with proper food, water and attention;
  - (3) The exotic animal is kept and cared for in such a way as not to endanger the safety of any person or property; and
  - (4) The exotic animal permitted notifies the director when changing his residence or location of the exotic animal, or selling or otherwise disposing of the exotic animal for which the permit was issued.
10. Permits issued pursuant to the provisions of this subsection shall be surrendered for inspection upon the request of the director. The premises on which an exotic animal is

maintained shall be open at any reasonable hour and in a reasonable manner for inspection by the Director.

11. For failure to have a permit in advance of obtaining an exotic animal or to renew the permit within sixty (60) days of the expiration date, or upon suspension of an exotic animal permit, the Director shall have the authority to enter the premises where the exotic animal is kept, at any reasonable hour, and to impound the animal. The animal shall be surrendered upon the demand of the director. Procedures for the reclamation and destruction of impounded exotic animals shall be followed pursuant to Section 5-231 of this Chapter and for fees as established in Article V of Chapter 16 – Fee Schedule.

(1) The exotic animal may be returned to its owner if the problem for which it was impounded is corrected within the time period allotted by the Director and all penalties are paid.

12. Notwithstanding the above, the valid zoological park, veterinary hospital, humane society, shelter, public laboratory, circus, sideshow, educational or scientific facility, provided protective devices adequate to prevent the animal from escaping or injuring the public are provided, are excluded from the above portions of this subsection.

13. Upon application to the Director, the keeping of these prohibited animals may be permitted for educational or scientific purposes; provided there is no conflict with state or federal regulations. In lieu of licensing each animal, an exotic animal permit may be issued in accordance with this subsection.

14. No person shall keep, conduct or operate any traveling animal show, petting zoos, circus, pony rides, animal acts or miscellaneous animal or reptile exhibits without first obtaining a special animal permit from the Director as follows:

(1) Each application for a special animal permit shall be in writing upon a form to be furnished by the Director and shall contain such information as the Director shall require. The fee for each special animal permit is established in Article V of Chapter 16 – Fee Schedule;

(2) All special permits issued by the director shall be for a specified period of time but not to exceed one (1) year unless revoked or, suspended, or unless the holder of the permit changes the location of his place of business, or sells, assigns, transfers or otherwise disposes of his business or his interests therein; and

(3) Upon the filing of each application, either for an original permit or renewal, the Director shall make an investigation as he or she deems proper. The Director shall then issue a permit to the applicant if it is found that:

(a) The animals, or the conduct or operation of the business for which the permit is requested will not constitute a menace to the health, peace or safety of the citizens; and

(b) The premises and establishment where the animals are to be kept are maintained in a clean and sanitary condition and that the animals will not be subject to needless

suffering, unnecessary cruelty or abuse and that the applicant has not had a permit revoked within one (1) year prior to the date of application.  
(Ord. 2007-344, 03 Apr 2007)

**Secs. 5-901 to 5-920. Reserved.**

**DIVISION 2. GUARD DOGS**

**Sec. 5-921. Purpose.**

It is conducive to the promotion of the health and general welfare of the inhabitants of this city to require permits for guard dogs, used on commercial property, and to establish regulations for the proper and safe use of guard dogs used for protecting commercial property.  
(Ord. 2007-344, 03 Apr 2007)

**Sec. 5-922. Permit Requirements.**

1. Unless a guard dog permit is in effect for each commercial property where guard dogs are to be used, they shall not be used. Procedures for permit application, inspection guard dog facilities, and issuance of dog identification tags will be established by the director. Permits for both permanent and temporary locations may be transferred to a new location operated by the same business firm during the license year. However, such transfers shall not be effective until the director or his designee has inspected and approved required facilities at the new location and the information required below for permit applications has been recorded. Applicants must provide five (5) working days' advance notice to the Animal Care and Control for permit transfers.
2. Permit applications shall include the following information:
  - (2) The business name, address and telephone number of the commercial property where guard dogs are to be used;
  - (3) The name, address and telephone number of the handler who can be reached at any time during the day or night;
  - (4) The number of dogs to be used and a general description of their use;
  - (5) The location where dogs are to be housed; and
  - (6) Any other information that the Director deems necessary by rule and regulation. Permit holders shall notify Animal Care and Control if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.
3. The Director or the designee shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for and when it is renewed.
4. If the inspection reveals that all the requirements of law and regulation are met, a fee shall be paid as established in Article V of Chapter 16 — Fee Schedule and a guard dog license and special guard dog identification tags for the approved commercial property shall be

issued by Animal Care and Control. The permit shall be displayed at the approved commercial property and an identification tag shall be affixed to the collar of each dog used. Holders of the guard dog permits shall be exempt for the guard dogs from the license fee requirements of Section 5-305 of this Chapter.

5. The guard dog permit shall be valid for one (1) year and must be renewed annually within thirty (30) days after the renewal date (see Article V of Chapter 16 – Fee Schedule).
6. The guard dog permit must be obtained prior to housing or utilizing guard dogs at the commercial property; provided that for those commercial properties where guard dogs were in use when this regulation became effective, there shall be a ninety day period in which to obtain the permit without penalty.
7. Whenever there is a guard dog on the premises, the standards of this subsection, in addition to the other requirements of law and regulations, shall be complied with, as follows:
  - (1) Housing shall have anti-escape fences completely surrounding it or be an anti-escape building sufficient to house guard dogs.
  - (2) All gates and entrances to the area where the guard dog is housed, used or trained shall be locked when not in use.
  - (3) Additional measures found necessary by the Director shall be taken to protect the public from accidental contact with any guard dog.
  - (4) Where guard dogs are used outside buildings, the area must be enclosed by at least a six-foot chain link fence or other fence of equal security, wall or adequate wood fence, to which anti-escape devices have been added. The adequacy of the fencing shall be subject to the approval of the Director.
  - (5) In order to control noise, the director may require a sight barrier which breaks the dog's line-of-sight.
  - (6) In buildings where guard dogs are housed, exterior glass must be adequate, or additional protective measures must be taken by the owner, as required by the director, to prevent the dog from jumping through it.
  - (7) The building and yard in which a guard dog is housed must be posted with bilingual, English and Spanish, or visual guard dog signs, approved by the director that shall not be more than two hundred feet (200') apart, and shall be at all property corners and at every entrance into the area.
  - (8) For guard dogs either transported or used in vehicles, measures prescribed by rule and regulation of the director must be taken to protect the public from accidental contact with a guard dog.
  - (9) A handler is required to be physically present while guard dogs are being used at temporary sites which do not comply with this subsection.

8. ~~Dogs which are used as private guard dogs on the property of their owner's private residence shall be excluded from the provisions of this subsection unless the residence is located on premises used for commercial purposes. Guard dogs kept in a kennel with a valid professional animal permit are also excluded.~~  
(Ord. 2007-344, 03-Apr-2007)

**Sec. 5-923. Violations, Suspensions, and Appeal Procedure.**

1. ~~If Animal Care and Control makes an inspection of a kennel, grooming parlor, pet shop, facility for exotic animals, residence for a dangerous dog or commercial property where guard dogs are used, and discovers a violation of law or regulations, he shall notify the permit holder, or operator, of such violations by means of an inspection report form or other written notice. The notice shall:~~
- ~~(1) Set forth the specific violation found;~~
  - ~~(2) Establish a specific and reasonable period of time for correction of the violation found;~~
  - ~~(3) State that failure to comply with any notice issued in accordance with the provisions of this chapter may result in immediate suspension of the permit; and~~
  - ~~(4) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within five (5) days of the receipt of the notification.~~
2. ~~Notices provided for under this subsection shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally or mailed by registered or certified mail, return receipt requested, to the permit holder, person in charge, or alleged violator. A copy of such notice shall be filed with the records of the Director.~~
3. ~~Hearings provided for in this subsection shall be conducted by the Director at a time and place designated by him or her. Based upon the record of such hearing, the Director shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Director. This paragraph shall not be intended to preclude the institution of court action as provided elsewhere in this chapter.~~
4. ~~Permits may be suspended by the Animal Care and Control Director for failure of the holder to comply with the requirements of law or regulations. The director may notify a permit holder in writing that the permit or license is, upon receipt of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the director within five (5) days of receipt.~~
5. ~~Notwithstanding the notice requirements herein, when Animal Care and Control finds unsanitary or other conditions in the operation of a kennel, grooming parlor, pet shop, shelter, exotic animal facility, or site where guard dogs are used, which, in his judgment, constitute a substantial hazard to public health, he may, without notice or opportunity to be heard, issue a written notice to the permit holder or operator citing such condition and stating the corrective action to be taken. If deemed necessary, the permit shall be~~

immediately suspended and all operations immediately discontinued. Any person to whom such an order is issued shall comply forthwith.

6. For repeated violations of any of the requirements of law or regulations or for interference with Animal Care and Control, the violator's permits may be permanently revoked after an opportunity for a hearing has been provided by the Director. The individual whose professional animal, exotic animal or guard dog permit is revoked shall not apply for another permit or license for the period of one (1) year. Prior to such action, the animal shelter director shall notify the permit holder in writing, stating the reasons for which the permit is proposed to be revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the director by the permit holder or licensee, within such five (5) day period.
7. If the exotic animal permit is revoked, the owner of the exotic animal shall give away, sell or surrender the animal to the Animal Care and Control within five (5) days of the effective date of revocation. If within seven (7) days thereafter, the director finds the former permittee is in compliance with law and regulations, the permit shall be renewed.
8. Any person, whose professional animal or guard dog permit has been suspended, shall cease the previously permitted activity. The person may, at any time, make application for an inspection for the purpose of reinstatement of the permit. Within five (5) days of a request for reinstatement, the Director shall make an inspection. If the applicant is complying with the requirements of law and regulations, the permit may be reinstated.
9. Any person aggrieved by any decision of the Director may, within five (5) days of receipt of the decision, file written notice of appeal to the governing body. The hearing of the governing body shall be conducted within thirty (30) days of receipt of the notice of appeal.  
(Ord. 2007-344, 03 Apr 2007)

# Staff Summary Report

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**MEETING DATE:** March 11, 2014  
**AGENDA ITEM:** XIV. Business (C)  
**AGENDA TITLE:** Final Adoption of Ordinance 2014-437 Amending Chapter 16, Article V. Animal Fees

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**ACTION REQUESTED BY:** Animal Control and Care  
**ACTION REQUESTED:** Approve the Final Adoption of Ordinance 2014-437 Amending Chapter 16, Article V. Animal Fees  
**SUMMARY BY:** Tina Roper

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## PROJECT DESCRIPTION / FACTS

As a result of the review and changes proposed to Chapter 5, the Animal Care and Control staff also reviewed and determined that fees needed to be changed for Section 16-251, Article V of Chapter 16 – Fee Schedule to accommodate changes to Chapter 5 Animals.

## PROCUREMENT / PURCHASING (if applicable)

None.

## FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

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**SUPPORT DOCUMENTS:** Ordinance 2014-437

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve the Final Adoption of Ordinance 2014-437 Amending Chapter 16, Article V. Animal Fees

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**City of Aztec  
ORDINANCE 2014-437**

**An Ordinance Amending Chapter 16, Article V. Animal Fees**

**WHEREAS:** The Animal Care and Control staff has thoroughly reviewed and determined that fees needed to be changed for Section 16-251, Article V of Chapter 16 – Fee Schedule to accommodate changes to Chapter 5 Animals.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the City of Aztec, New Mexico that Ordinance 2014-437 Amends Chapter 16 – Fee Schedule, Article V. Animal Fees, Section 16-251 Fees in General to be adopted as attached.

**PASSED, APPROVED, SIGNED AND ADOPTED THIS** \_\_\_\_\_ day of \_\_\_\_\_ 2014.

By the Aztec City Commission, City of Aztec, New Mexico

\_\_\_\_\_  
Mayor Sally Burbridge

ATTEST:

\_\_\_\_\_  
Karla Sayler, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry T. Thrower, City Attorney

ADVERTISED DATE OF FINAL ADOPTION: \_\_\_\_\_

EFFECTIVE DATE OF ORDINANCE: \_\_\_\_\_

## ARTICLE V. ANIMAL FEES

### Sec. 16-251. Fees in General.

Adoption (Canine)	<del>\$75.00</del> Varies	Adoption fees to be determined by Animal Shelter Director, Includes spay/neuter, vaccinations, and microchip
Adoption (Feline)	<del>\$55.00</del> Varies	Adoption fees to be determined by Animal Shelter Director, Includes spay/neuter, vaccinations, and microchip.
Adoption of other animals	Varies	Adoption fees to be determined by Animal Shelter Director
Boarding	<del>\$4.00</del> \$5.00	Per Day
Deposit	\$100.00	Will be refunded when adopted animal returns for spay/neuter
Euthanize	\$5.00	
Impound	<del>\$25.00</del> <del>\$35.00</del> <del>\$45.00</del> \$60.00	\$30.00 1 <sup>st</sup> offense \$40.00 2 <sup>nd</sup> offense \$50.00 3 <sup>rd</sup> offense 4 <sup>th</sup> offense
Microchip	<del>\$10.00</del> \$20.00	
Medical	Varies	Cost is dependent upon treatment.
Pet Supplies	Varies	Cost is dependent upon the item (i.e. collars, leashes, cardboard pet carriers, I.D. tags, etc)
Rabies	\$50.00	Observation
	\$10.00	Unvaccinated animals (will be refunded upon proof of vaccine)
Sterilization	\$25.00	Un-sterilized animals (will be refunded upon proof of sterilization)
Trip	<del>\$5.00</del> \$10.00	Per Pick-up
Vaccination	\$5.00	Per <del>Shot</del> vaccine and de-wormer

(Ord. 2008-361, 2008-Nov-26; Ord. 2007-345, eff. 2007-Apr-03)

### Sec. 16-252. Permits and Licenses.

<del>Animal Exhibit</del>	<del>\$20.00</del>	
<del>Animal Fancier</del> Kennel	\$50.00	Initially

	\$25.00	Renewal (if exact same animals)
Dangerous Dog	\$75.00	Initially
	\$35.00	Renewal
Exotic Animal	\$40.00	Yearly
Guard Dog	\$50.00	Initially
	\$25.00	Renewal
Hobby Breeder	\$75.00	Yearly
Litter	\$75.00	Per Litter
Professional Animal Care	\$20.00	Yearly
Unaltered Dog or Cat	\$70.00	Per Animal (yearly)
Intact Animal	\$75.00	Per Animal (yearly)
Late Fee on permits	\$25.00	If more than 30 days late
City License	\$3.00	\$10.00 Per Animal - Spayed or Neutered Animal
	\$8.00	\$5.00 for Senior Citizens 65 or older Un-spayed or Un-
	\$1.00	neutered Animal
	\$1.00	
	\$2.00	Lost Tag Replacement
	\$5.00	Late Renewal

(Ord. 2007-345, eff. 2007-Apr-03)

**Secs. 16-253 to 16-259. Reserved.**

# Staff Summary Report

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**MEETING DATE:** March 11, 2014  
**AGENDA ITEM:** XIV. Business (D)  
**AGENDA TITLE:** Final Adoption of Ordinance 2014-438 Amending Chapter 1, Section 12 Fine Schedule for Section 1-12-4

---

**ACTION REQUESTED BY:** Animal Control and Care  
**ACTION REQUESTED:** Approve the Final Adoption of Ordinance 2014-438 Amending Chapter 1, Section 12 Fine Schedule for Section 1-12-4  
**SUMMARY BY:** Tina Roper

---

## PROJECT DESCRIPTION / FACTS

As a result of the review and changes proposed to Chapter 5, the Animal Care and Control staff has proposed that the attached fine schedule be adopted by the Aztec City Commission as the Fine Schedule for all animal offenses occurring within the City of Aztec.

## PROCUREMENT / PURCHASING (if applicable)

None.

## FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

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**SUPPORT DOCUMENTS:** Ordinance 2014-438

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve the Final Adoption of Ordinance 2014-438 Amending Chapter 1, Section 12 Fine Schedule for Section 1-12-4

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**City of Aztec  
ORDINANCE 2014-438**

**An Ordinance Amending Chapter 1, Section 12  
Fine Schedule for Section 1-12-4**

**WHEREAS:** The Animal Care and Control staff has thoroughly reviewed and analyzed the Fine Schedule for offenses dealing with Animals; and

**WHEREAS:** The Animal Care and Control staff has proposed that the attached fine schedule be adopted by the Aztec City Commission as the Fine Schedule for all animal offenses occurring within the City of Aztec.

**NOW THEREFORE BE IT ORDAINED** by the Governing Body of the City of Aztec, New Mexico that Chapter 1, Section 12 be and hereby amended as attached.

**PASSED, APPROVED, SIGNED AND ADOPTED THIS** \_\_\_\_\_ day of \_\_\_\_\_  
2014.

By the Aztec City Commission, City of Aztec, New Mexico

\_\_\_\_\_  
Mayor Sally Burbridge

ATTEST:

\_\_\_\_\_  
Karla Saylor, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry T. Thrower, City Attorney

ADVERTISED DATE OF FINAL ADOPTION: \_\_\_\_\_

EFFECTIVE DATE OF ORDINANCE: \_\_\_\_\_

## Amending Sec. 1-12. Mandatory Penalty and Fees; Disposition and Use of Fees

(4) *Animals*. In reference to Chapter 5.

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
5-223	Unauthorized Removal of Animals	No	\$100		\$100
5-235	Failure to Return Adopted Animal for Spay/Neuter Surgery	No	\$200		\$200
5-301	Liability Of Damages Caused By Animal	Yes	Set at Hearing	\$29	Set at Hearing
5-302	Restraint Of Animal	No	\$100	--	\$100
5-302	Restraint Devices	No	\$150	--	\$150
5-304	Confinement Of Female Dogs & Cats	No	\$50	--	\$50
5-303	Dog And Cat Licenses	No	\$65		\$65
5-401	Interference With Animal Control Officer	Yes	Set at Hearing	\$29	Set at Hearing
5-402	Service Animals	No	\$300	--	\$300
5-403	Fraudulent Use Of Rabies & License Tags	No	\$100	--	\$100
5-404	Number Of Dogs Cats Wolves & Coyotes	No	\$200	--	\$200
5-421	Cruelty Animals Inhumane Treatment of Animals	Yes	Set at Hearing	\$29	Set at Hearing
5-422	Work Cruelty	Yes	Set at Hearing	\$29	Set at Hearing
5-423	Neglect	Yes	Set at Hearing	\$29	Set at Hearing
5-424	Abandonment	Yes	Set at Hearing	\$29	Set at Hearing
5-425	Poisoning	Yes	Set at Hearing	\$29	Set at Hearing
5-426	Injury By Motorist	Yes	Set at Hearing	\$29	Set at Hearing
5-427	Keeping Of Diseased Or Painfully Crippled Animals	Yes	Set at Hearing	\$29	Set at Hearing
5-428	Animal Fights	Yes	Set at Hearing	\$29	Set at Hearing
5-429	Confining Or Crating Of Fowls	Yes	Set at Hearing	\$29	Set at Hearing
5-430	Birds	Yes	Set at Hearing	\$29	Set at Hearing
5-422	Leg hold Traps Prohibited	Yes	Set at Hearing	\$29	Set at Hearing
5-451	Animals Running At Large				

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
	1 <sup>st</sup> Offense	No	\$100	-	\$100
	2 <sup>nd</sup> Offense	No	\$150	-	\$150
	3 <sup>rd</sup> Offense	No	\$200	--	\$200
	4 <sup>th</sup> Offense	No	\$300	-	\$300
5-452	Animals Disturbing The Peace				
	1 <sup>st</sup> Offense	No	\$100	-	\$100
	2 <sup>nd</sup> Offense	No	\$150	-	\$150
	3 <sup>rd</sup> Offense	No	\$200	-	\$200
	4 <sup>th</sup> Offense	No	\$300	-	\$300
5-453	Animal Defecation Clean-Up	No	\$100	-	\$100
<del>5-454</del>	<del>City Parks -- Animals Prohibited</del>	<del>No</del>	<del>\$100</del>	<del>-</del>	<del>\$100</del>
5-461	Sale Or Gift Of Animals	No	\$200	-	\$200
<del>5-462</del>	<del>Slaughterhouses And Slaughtering</del>	<del>No</del>	<del>\$300</del>	<del>-</del>	<del>\$300</del>
<del>5-462</del>	<del>Animals On Unenclosed Premises</del>				
	1 <sup>st</sup> Offense	No	\$100	-	\$100
	2 <sup>nd</sup> Offense	No	\$150	-	\$150
	3 <sup>rd</sup> Offense	No	\$200	-	\$200
	4 <sup>th</sup> Offense	No	\$300	-	\$300
<del>5-463</del>	<del>Unlawful Retention Of Strays</del>	<del>No</del>	<del>\$75</del>	<del>-</del>	<del>\$75</del>
<del>5-465</del>	<del>Confining Of Animals In A Motor Vehicle</del>	<del>No</del>	<del>\$100</del>	<del>-</del>	<del>\$100</del>
<del>5-464</del>	<del>Poultry</del>	<del>No</del>	<del>\$50</del>	<del>-</del>	<del>\$50</del>
5-501	Rabies Vaccination Required	No	\$75	-	\$75
<del>5-502</del>	<del>Human Exposure Animal Symptom Of Rabies</del>	<del>No</del>	<del>\$75</del>	<del>-</del>	<del>\$75</del>
<del>5-505</del>	<del>Possession Of Skunks</del>	<del>No</del>	<del>\$60</del>	<del>-</del>	<del>\$60</del>
<del>5-604</del>	<del>Vicious Animal</del>	<del>Yes</del>	<del>Set at Hearing</del>	<del>\$29</del>	<del>Set at Hearing</del>
5-601	Dangerous Animal	Yes	Set at Hearing	\$29	Set at Hearing
<del>5-721</del>	<del>Intact Animal Permit Required Permit Required</del>	<del>No</del>	<del>\$250</del>	<del>-</del>	<del>\$250</del>
5-731	Kennel Permit Required Limit Number Of Dogs And Cats	No	\$250	-	\$250
5-741	Hobby Breeder Or Litter Permit Required	No	\$250	-	\$250
<del>5-742</del>	<del>Enclosure For Breeding</del>	<del>No</del>	<del>\$50</del>	<del>-</del>	<del>\$50</del>

<b>Citing</b>	<b>Title</b>	<b>Appearance Required</b>	<b>Fine Amount</b>	<b>Court Costs</b>	<b>Total Fine</b>
5-801	Mandatory Spaying And Neutering	No	\$250	-	\$250
<del>5-901</del>	<del>Wild Or Exotic Animals</del>	<del>No</del>	<del>\$200</del>	<del>-</del>	<del>\$200</del>
<del>5-922</del>	<del>Guard Dog Permit Required</del>	<del>No</del>	<del>\$200</del>	<del>-</del>	<del>\$200</del>

# Staff Summary Report

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<b>MEETING DATE:</b>	March 11, 2014
<b>AGENDA ITEM:</b>	<b>XIV. BUSINESS ITEM (E)</b>
<b>AGENDA TITLE:</b>	Mary Shepherd 1 WS 47 Abandonment

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<b>ACTION REQUESTED BY:</b>	XTO Energy Inc. – Cherylene Charley
<b>ACTION REQUESTED:</b>	Approve Request for Permit to Plug & Abandon
<b>SUMMARY BY:</b>	Joshua Hedgpeth, Planning Technician

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## **PROJECT DESCRIPTION / FACTS**

1. XTO Energy Inc.'s Cherylene Charlie has submitted an Oil and Gas Permit Application to do a plug and abandon for the Mary Shepherd 1 WS 47 (existing well), located in NWSW Sec. 10, T30N, R11W, City of Aztec, San Juan County, New Mexico.
2. Well Site project is located within the City limits of Aztec within the Kokopelli Subdivision.
3. This is an application to plug and abandon an existing gas well on location. Existing access road will be used so will have no new surface disturbance required to access the site.
4. The current well pad would be utilized during abandonment procedures, requiring no additional surface disturbance on site.
5. XTO Energy Inc. has provided a completed application form for the permit request for the Mary Shepherd 1 WS 47.
6. Plug & Abandon Rig will be onsite for 2-3 days. Hours of work will be daylight hours only.
7. XTO Energy will remove all production equipment and rig anchors. They will re-contour the location to as near as the original conditions as possible.
8. XTO Energy will be re-seeding the location with nine species from the BLM Plant Communities plant list.
9. All requirements and efforts shall be made to mitigate sound emanating from the site.

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<b>SUPPORT DOCUMENTS:</b>	1. Permit Application with supporting documentation 2. Site/Location Map
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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve the Oil and Gas Permit Application for a plug and abandon for the Mary Shepherd 1 WS 47.

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**HAND DELIVERED**

February 11, 2014

City of Aztec  
Community Development Dept.  
Attn: Joshua Hedgpeth  
201 West Chaco  
Aztec, NM 87410

**RE: Oil & Gas Permit Application**  
Mary Shepherd #1 Well (API# 30-045-23355)  
NWSW Sec. 10, T30N, R11W  
San Juan County, New Mexico

Dear Joshua:

Please find enclosed a completed permit application and check number 3177 in the amount of \$500.00 to cover the associated filing fee.

XTO requests approval of the attached permit application to permanently plug and abandon the well and to perform reclamation work, per the attached reclamation plan. XTO plans to commence the rig work immediately upon obtaining approval. The duration of the work is expected to be 2-3 days, daylight hours only.

If there are any questions or concerns regarding our application, please call the undersigned at 505-333-3190, or by email at [Cherylene\\_Charley@xtoenergy.com](mailto:Cherylene_Charley@xtoenergy.com).

Sincerely,

A handwritten signature in blue ink that reads 'Cherylene L. Charley'.

Cherylene L. Charley  
Sr. Permitting Tech

/clc  
Attachments - O&G Application w/attachments

File: Mary Shepherd #1 Well File

**RECEIVED**

FEB 11 2014

CITY OF AZTEC  
COMMUNITY DEVELOPMENT

Permit #:

Date Started:

Date Finalized:

COA#: 47



# CITY OF AZTEC OIL & GAS APPLICATION

**(APPLICATIONS ARE VALID FOR 90 DAYS FROM DATE OF SUBMISSION)  
NEW WELL SITES AND MAJOR MAINTENANCE WORK REQUIRE COMMISSION  
APPROVAL; APPLICATIONS FOR SUCH APPROVAL MUST BE SUBMITTED A  
MINIMUM OF 21 DAYS BEFORE THE SCHEDULED COMMISSION MEETING.**

APPLICANT CONTACT INFORMATION	
Name of Operator:	XTO Energy Inc.
Address:	382 Road 3100, Aztec, NM 87410
Contact Name:	Cherylene Charley, Sr. Permitting Analyst
Phone:	505-333-3190
Email:	cherylene_charley@xtoenergy.com
Name of Off-set Lease/Owner(s):	BLM, Burlington Resources, Robert L Bayless Prod
WELL INFORMATION	
Name:	Mary Shepherd #1
API #:	30-045-23355
Type of Lease:	Fee
Lease Number:	Mary Anne Shepherd
Depth:	2371' TD
Formation:	Pictured Cliffs
Location:	1700' FSL & 1760' FWL (NWSW) Sec. 10, T30N, R11W
Type of Work:	Plug and Abandon
Contractor:	A-Plus Well Service
Proposed Work Dates:	March 1, 2014
WELL SITE INFORMATION	
Address: 508 French Drive	
Tax ID: R0002654	Parcel Size (acres): 1.369 acres
Zone District:	Current Use: Residential
Flood Plain:	<input type="checkbox"/> YES <input type="checkbox"/> NO SFHA Zone:
Well Pad Area (sqft) :	Existing Pad Area:
	New Pad/ Expansion:
	Total Pad Area:
Setbacks:	Building:
	Arroyo:
<b>PERMIT FEES ARE DUE AT TIME OF APPLICATION; additional fees may be assessed at time of permit approval.</b>	

<b>THIS IS AN APPLICATION AN OFFICIAL LAND USE PERMIT WILL BE ISSUED BY THE CITY OF AZTEC ONCE THIS APPLICATION IS REVIEWED AND APPROVED</b>	
CITY OF AZTEC USE ONLY	
PERMIT FEES	
Admin. Fee	\$
Permit Fee	\$
Electric Fees	\$
<b>GRAND TOTAL</b>	<b>\$</b>
<b>THE FOLLOWING ITEMS MUST BE COMPLETED BY APPLICANT ONCE LAND USE PERMIT IS ISSUED</b>	
Arrange City Utility Inspections/Connections	_____
County Building Permit	_____
One Call (811)	_____
Install Address Numbers	_____
CITY COMMENTS	
Meets SB:	
Meets Height:	
Zone Compliance:	
Visual/Weed Mit.:	
Noise Mit.:	
Fencing:	
Dust/Access Mit.:	
Wetlands:	
EPA CGP:	
NM OCD:	
USACE:	

## RECEIVED

FEB 11 2014

CITY OF AZTEC January 2014  
COMMUNITY DEVELOPMENT

Permit #:

Date Started:

Date Finalized:

COA#:

WELL SITE INFORMATION, Cont.				
Compressors:		No.	Horse Power	Gas/ Electric
	Existing:	0		
	New:			
	Total:	0		
Features	Existing	New	Removed	
Meter House:	1			
Separators:	1			
Valves:	5			
Evaporative Tanks:	0			
Production Tanks:	0			
Reserve Pits:	1			
Pump Jacks:	1			
Sound Enclosures:	0			

**ATTACHED DOCUMENTATION ( AS REQUIRED )**  
*Consult the Community Development Dept. for Guidance*

DOCUMENTATION ITEMS	YES	NO	N/A
Owner Verification			
Detailed Site Map	X		
Weed/Vegetation Plan	X		
Electrical Load Calculation			
Visual Mitigation Plan	X		
Wildlife Mitigation Plan			
Noise Mitigation Plan			
Dust/Access Mitigation Plan			
Certificate of Insurance			
Copy of Original Lease			
Surface Damage/ROW Agreement			
APD Sundry Notice			
C-144			
Elevation Certificate			
Land Use Hearing Application (Variance, etc.)			
Business License Application			

CITY STAFF APPROVAL	
Community Development	_____
Electric Dept.	_____
Utility Office	_____
Public Works Dept.	_____
Floodplain Management	_____
Storm Water Mgmt.	_____
Parks and Recreation	_____
Addressing	_____
Police Dept.	_____
Fire Dept.	_____
City Commission	_____

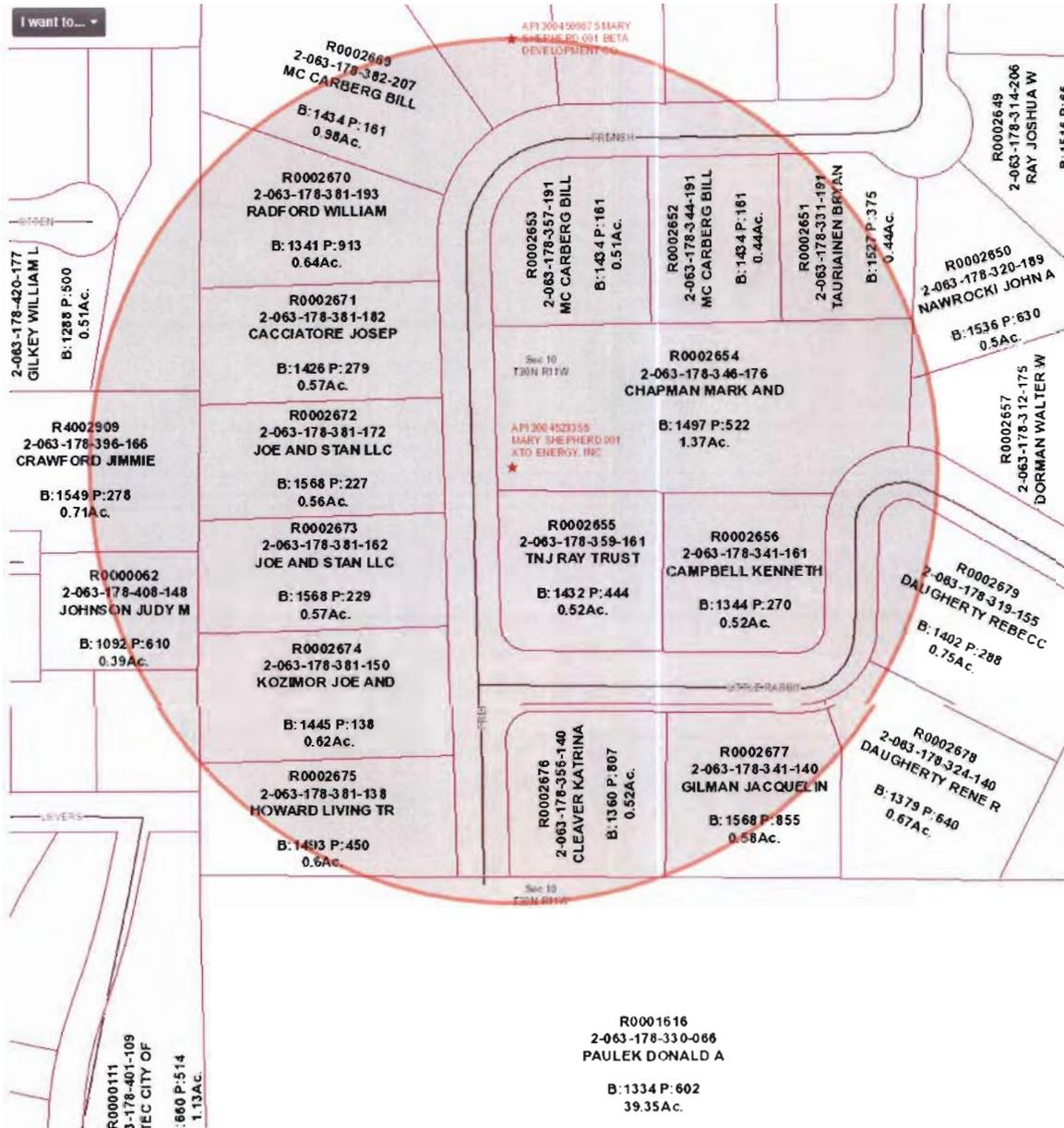
**APPLICANT SIGNATURE**

I, Cherylene Charley,  
 representing XTO Energy Inc.,  
 hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, sketches, and/or plans submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.  
**Signature:** Cherylene Charley  
**Date:** 1-31-14

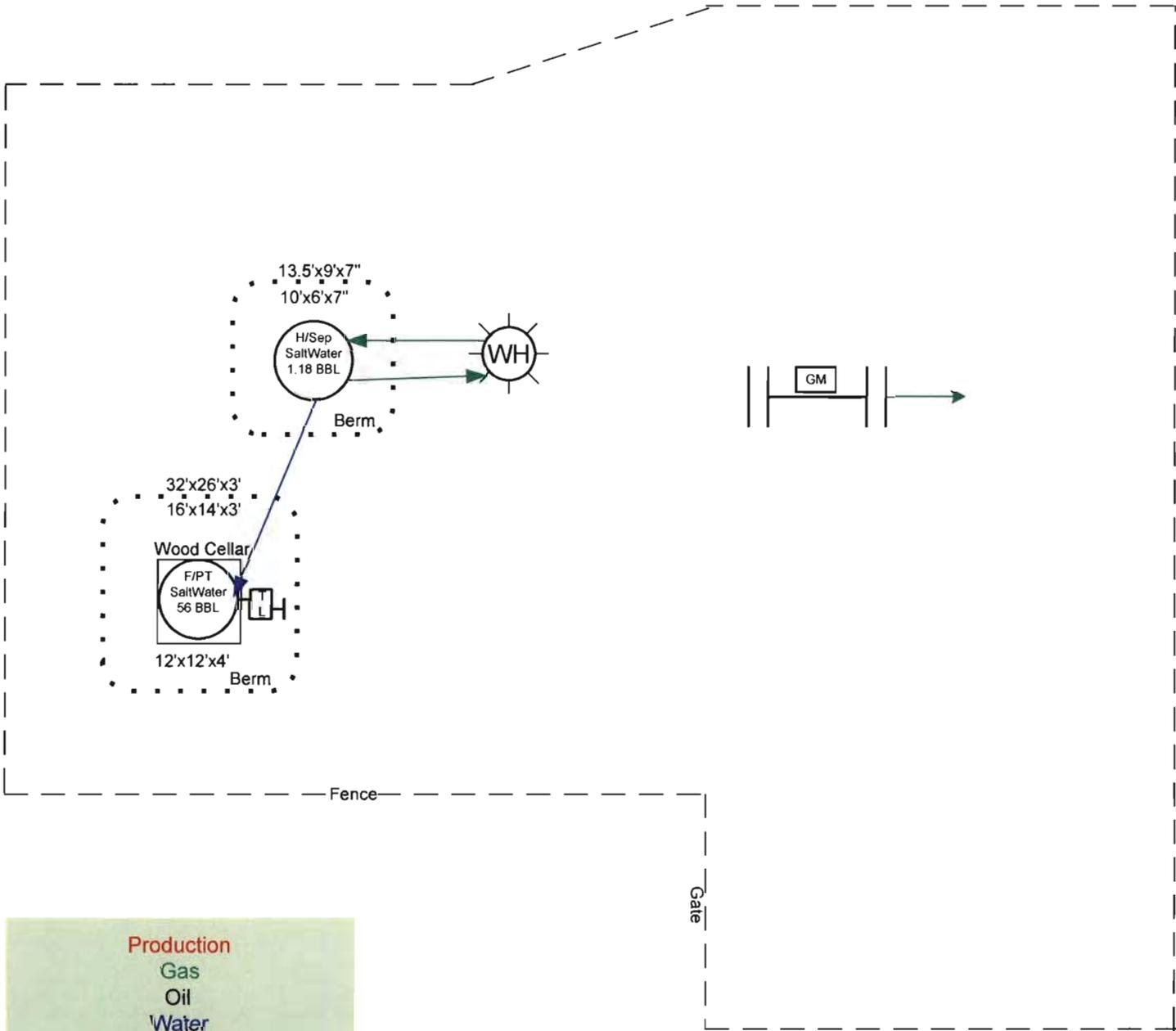
**PAID**

TY OF AZTEC  
 02/11/2014 14:24 CD2  
 CM DEV OIL & GAS PERMITS  
 U-8059649 AMOUNT  
 FMSD CM DEV OIL & GAS PERMI 500.00  
 PAYMENT RECEIVED AMOUNT  
 CHECK: 3177 500.00  
 TOTAL 500.00

**Mary Shepherd #1**  
**NWSW Sec. 10, T30N, R11W**  
**1700' FSL & 1760' FWL**  
**San Juan County, New Mexico**



Well Name: Mary Shepard # 1  
 Field: San Juan County NM  
 Serial Number: API # 30-045-23355  
 Section: Sec. 10, T-30N, R-11W



Production  
 Gas  
 Oil  
 Water  
 Equalizing Line  
 Catch Basin-□

Submit 3 Copies To Appropriate District Office  
 District I  
 1625 N. French Dr., Hobbs, NM 87240  
 District II  
 1301 W. Grand Ave., Artesia, NM 88210  
 District III  
 1000 Rio Brazos Rd., Aztec, NM 87410  
 District IV  
 1220 S St. Francis Dr., Santa Fe, NM 87505

State of New Mexico  
 Energy, Minerals and Natural Resources

Form C-103  
 June 19, 2008

OIL CONSERVATION DIVISION  
 220 South St. Francis Dr.  
 Santa Fe, NM 87505

RECEIVED  
 JUN 15 2010

WELL API NO. 30-045-23355
5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name: MARY SHEPHERD
8. Well Number #1
9. OGRID Number 5380
10. Pool name or Wildcat AZTEC PICTURED CLIFFS

**SUNDRY NOTICES AND REPORTS ON WELLS**  
 (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS)

1. Type of Well:  
 Oil Well  Gas Well  Other

2. Name of Operator  
 XTO ENERGY INC.

3. Address of Operator  
 382 CR 3100 AZTEC, NM 87410

4. Well Location  
 Unit Letter K : 1700 feet from the SOUTH line and 1760 feet from the WEST line  
 Section 10 Township 30N Range 11W NMPM County SAN JUAN

11. Elevation (Show whether DR, RKB, RT, GR, etc.)  
 5754' GR

12. Check Appropriate Box to Indicate Nature of Notice, Report, or Other Data

NOTICE OF INTENTION TO:

PERFORM REMEDIAL WORK  PLUG AND ABANDON   
 TEMPORARILY ABANDON  CHANGE PLANS   
 PULL OR ALTER CASING  MULTIPLE COMPL   
 DOWNHOLE COMMINGLE   
 OTHER:

SUBSEQUENT REPORT OF:

REMEDIAL WORK  ALTERING CASING   
 COMMENCE DRILLING OPNS.  P AND A   
 CASING/CEMENT JOB   
 OTHER:

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 1103. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

XTO Energy Inc. intends to plug and abandon this well per the attached procedure. Please see also, the attached current and proposed wellbore diagrams for further information.

Notify NMOCD 24 hrs prior to beginning operations

RCVD JUN 1 '10  
 OIL CONS. DIV.  
 DIST. 3

Spud Date:  Rig Release Date:

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE: [Signature] TITLE: REGULATORY ANALYST DATE: 5/27/10  
 Type or print name: LORRI D. BINGHAM E-mail address: Lorri\_bingham@xtoenergy.com PHONE: 505-333-3204

For State Use Only  
 APPROVED BY: [Signature] TITLE: Deputy Oil & Gas Inspector, District #3 DATE: 6/4/10

Conditions of Approval (if any):

10

# Plug and Abandonment Procedure

March 29, 2010

## Mary Shepherd #1

Aztec Pictured Cliffs  
1700' FSL and 1760' FWL, Section 10, T30N, R11W  
San Juan County, New Mexico / API 30-045-23355  
Lat: N \_\_\_\_\_ / Lat: W \_\_\_\_\_

Note: All cement volumes use 100% excess outside pipe and 50' excess inside. The stabilizing wellbore fluid will be 8.3 ppg, sufficient to balance all exposed formation pressures. All cement will be Class B, mixed at 15.6 ppg with a 1.18 cf/sx yield.

1. This project requires the Operator to obtain an approved NMOCD C-144 Pit or Below-Grade Tank Registration application for the use of an A-Plus steel tank to handle waste fluids circulated from the well and cement wash up.
2. Install and test location rig anchors. Comply with all NMOCD, BLM, and Operator safety regulations. MOL and RU daylight pulling unit. Conduct safety meeting for all personnel on location. Record casing, tubing and bradenhead pressures. NU relief line and blow down well. Kill well with water as necessary and at least pump tubing capacity of water down the tubing. ND wellhead and NU BOP. Function test BOP.
3. Rods: Yes \_\_\_\_\_, No  , Unknown \_\_\_\_\_.  
Tubing: Yes  , No \_\_\_\_\_, Unknown \_\_\_\_\_, Size 2.375", Length 2233'.  
Packer: Yes \_\_\_\_\_; No  , Unknown \_\_\_\_\_, Type \_\_\_\_\_.  
If this well has rods or a packer, then modify the work sequence in step #2 as appropriate. Round trip 4.5" casing scraper or gauge ring to 2201'; or as deep as possible.
4. **Plug #1 (Pictured Cliffs perforations and PC/Fruitland tops, 2201' - 1901')**: RIH and set CR at 2201'. Pressure test tubing to 1000 PSI. Pressure test casing to 800 PSI. If casing does not test, then spot or tag subsequent plugs as appropriate. Load casing with water and circulate well clean. Mix and pump 27 sxs Class B cement and spot a balanced plug above CR to isolate the Pictured Cliffs interval and cover the Fruitland top. PUH.
5. **Plug #2 (Kirtland and Ojo Alamo tops, 1066' - 750')**: Spot 28 sxs Class B cement inside casing to cover through the Ojo Alamo top. PUH.
6. **Plug #3 (8.625" Surface casing, 306' - Surface)**: Connect the pump line to the bradenhead valve. Pressure test the BH annulus to 300#; note the fluid volume to load. If the BH annulus tests, then mix 25 sxs Class G cement and spot a balanced plug inside the 4.5' casing to cover the surface casing shoe, circulate cement to surface out the casing valve. TOH and LD the tubing. If the BH annulus does not test, then perforate at the appropriate depths to cover the casing shoe and fill the bradenhead annulus to surface. TOH and LD tubing. Shut in well and WOC.
7. ND cementing valves and cut off wellhead. Fill 4.5" casing with cement as necessary. Install P&A marker to comply with regulations. RD, MOL, cut off anchors, and restore location.



# Mary Shepherd #1 Current

Aztec Pictured Cliffs  
1700'FSL, 1760'FW L, Section 10, T-30-N, R-11-W,  
San Juan County, NM / API #30-045-23355  
Lat \_\_\_\_\_ / Long \_\_\_\_\_

Today's Date: 3/29/10  
Spud: 4/18/79  
Completed: 4/28/79  
Elevation: 5754' GL

12.25" hole

TOC @ surface, (Calc, 75%)

8 625" 28# K-55 Casing set @ 256'  
Cement with 175 sxs (Circulated to Surface)

2.375" tubing @ 2233'  
(71 jts, 4.7# EUE)

Ojo Alamo @ 800'

Kirtland @ 1016' \*est

Fruitland @ 1951' \*est

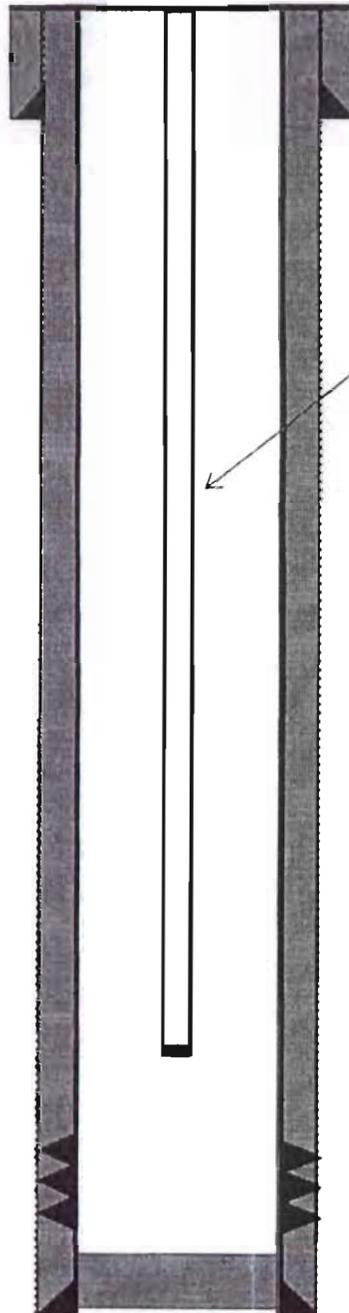
Pictured Cliffs @ 2251'

Pictured Cliffs Perforations:  
2251' - 2293'

4.5", 10.5#, K-55 Casing set @ 2370'  
Cement with 385 sxs (486 cf)

6.75" hole

TD 2371'  
PBSD 2339'





P&A  
Reclamation/Weed/Vegetation  
Plan

1/30/2014

**MARY SHEPHERD 1**

**API 30-045-23355**

**FEE/FEE**

**Lat: 36.82421, Long: -107.098121**

**Footage: 770' FSL & 1,985' FEL**

**NW/SE Sec. 10K, T30N, R11W**

### ***1.0 PURPOSE and SCOPE***

1.1) The purpose of this document is to ensure final reclamation of associated pad and access roads as required by applicable Federal, State and local laws and regulations. Properly performed reclamation procedures are required to preserve Private, Public, Tribal and National Forest lands, mitigating any possible environmental/surface owner issues that could potentially arise. This reclamation plan (*New Mexico Administrative Code (NMAC) 19.15.25, Surface Owners Protection Act (SOPA) 70.12.1-70.12.10*) is designed to provide environmentally sound, safe, prudent and specific guidelines, while implementing Best Management Practices, to assist in returning disturbed soils to a level consistent with the surrounding topography prior to the approved disturbance.

### ***3.0 PROCEDURES***

3.1) Rehabilitation work will be completed within one year from plug date [*19.15.25.C NMAC*]. No new disturbance will be allowed outside current disturbed areas to be reclaimed. Notifications, as stipulated in the APD, governing statutes, governing laws, and written agreements, will be provided to involved individuals/agencies via sundry notifications, e-mail, or phone within required time frames [*19.15.25 NMAC*], [*70-12-5-B SOPA*].

3.2) Fences, production equipment, purchaser's equipment, concrete slabs, anchors, flow lines (above ground and/or subterranean) will be removed or capped. Risers, debris, and trash will be removed and disposed of at approved facilities [*19.15.25 NMAC*], [*70-12-4-C SOPA*].

**3.3) Production pits** will be closed and remediated according to Federal, State, and Local guidelines [19.15.17 NMAC] [70-12-4-C SOPA] Proper notifications will be made according to the above mentioned guidelines as required. Impacted soil discovered during reclamation activities will be remediated and disposed of at an approved waste facility according to above mentioned guidelines and regulations.

**3.4) Available top soil**, typically the top 6", will be stockpiled during reclamation procedures with the top soil being redistributed after completion of earthwork to assist in achieving adequate vegetation growth.

**3.5) Gravel** on location will be removed and/or buried in place to assist in contouring.

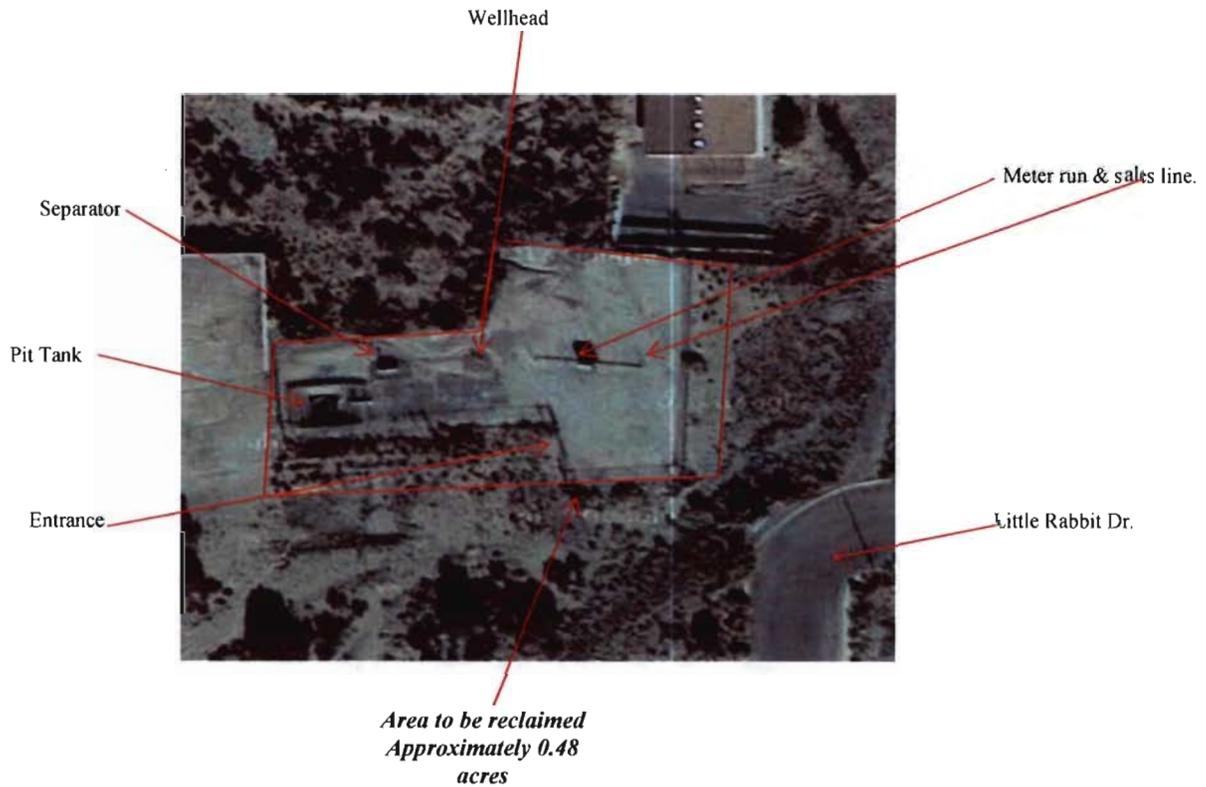
**3.6)** Disturbed areas of approximately 0.48 acres will be returned (as close as possible) to pre-disturbance topography [19.15.25 NMAC], [70-12-5-B SOPA]. The removal of sharp angular corners and redefinition of natural drainage will be priority allowing for additional contouring to aid in erosion control. Reclaimed areas will be ripped to depths of a minimum of 12" (inches), leaving the surface as rough as necessary, to provide sufficient root establishment, growth, and stabilization of disturbed areas.

**3.7)** Access roads not required will be reshaped, reclaimed and contoured as close as possible to surrounding area. Top soil, typically the top 6", preserved during reclamation procedures, will be pulled up and redistributed after completion of earthwork to assist in achieving adequate vegetation growth. ***Ornamental gravel will be placed on the portion of the access road per agreement between landowner and XTO***

**3.8)** Seeding will be accomplished, following proper agency notifications, with recommended procedures. Appropriate certified weed free seed mixes will be used. ***The Badlands community (BLM Plant Communities) was identified with Fourwing saltbush (Atriplex canescens) @ 4.0 PLS/acre, Shadscale (Atriplex confertifolia) @ 2.0 PLS/acre, Indian ricegrass (Achnatherum hymenoides) @ 5.0 PLS/acre, Alkali sacaton (Sporobolus airoides) @ 0.25 PLS/acre, Galleta (Pleuraphis jamesii) @ 4.0 PLS/acre, Blue grama (Bouteloua gracilis) @ 2.0 PLS/acre and Small flower globemallow (Sphaeralcea parvifolia) @ 0.25 PLS/acre being chosen as preferred seed mix for this location unless directed otherwise by appropriate authorized persons [70-12-5-B SOPA].*** Seed will be distributed via appropriate methods as dictated by topography of reclaimed areas. Additional methods, as dictated by reclaimed topography, may be utilized to control runoff and assist in established growth [19.15925 NMAC], [70-12-5-B SOPA].

**3.9)** Fencing, signage, and other deterrents will be installed when deemed necessary to discourage travel on reclaimed areas.

## 2.0 SITE MAP



## 4.0 ARCHAEOLOGICAL CONCERNS

4.1) Any disturbance activity outside approved areas may require additional approvals.

4.2) All employees will be educated on the importance of cultural site preservation and the legalities of disturbing cultural sites.

4.3) If any cultural sensitive areas are unearthed during the reclamation process work will be immediately suspended with the incident reported to the appropriate agencies. XTO will stand by for further direction [*New Mexico Cultural Properties Act (NMCPA) 18-6-1 - 17*].

**5.0 THREATENED AND ENDANGERED SPECIES (T&E)**

5.1) If any T&E not previously surveyed are discovered during reclamation activities work will be immediately suspended and the appropriate T&E Specialist will be promptly notified. XTO will stand by for further direction (*Endangered Species Act*).

**6.0 WILDLIFE RESTRICTIONS**

6.1) Closures and restrictions specified in the APD, if applicable, will be strictly adhered to.

**7.0 ABANDONMENT MARKER**

7.1) Required marker as specified by the rules and regulations [19.15.25.C NMAC] will be installed.

**8.0 WEED MANAGEMENT**

8.1) Use of approved pesticides/herbicides shall be according to applicable Federal, State, Tribal and local laws in place prior to reclamation approval. Management of Invasive and Noxious Weeds, as listed on the New Mexico Noxious and Invasive list, will be implemented by the land owner upon completion of reclamation and seeding efforts.

# Land Use Hearing

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**MEETING DATE:** March 11, 2013  
**QUASI JUDICIAL ITEM:** XV. Special Use Request For 809 Pioneer Ave.  
**QUASI JUDICIAL TITLE:** 809 Pioneer Ave. – Special Use

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## **FINDING OF FACTS**

### **Community Development Finding of Facts**

1. The property in question is located at 809 Pioneer Ave. and is comprised of 2 parcels identified as R0001558 & R0001559 with a total of 0.35 acres. The property is zoned A-1 Agricultural or Rural District and managed by Darrin Steed who represents Mrs. Betty Steed with Power of Attorney as the Steed O T and Betty Trust.
2. Mr. Steed is applying for a Special Use permit to allow a travel trailer located on site to act as a temporary secondary residence, a use that does not conform to Sec. 26-2-21 In General and Sec. 26-2-22 Uses Permitted for A-1 Agricultural or Rural District.
3. Contact History –
  - a. Code Compliance received a citizen complaint indicating that an individual was living in the travel trailer on December 9, 2013 and issued a Courtesy Notice requesting that the individual occupying the trailer, vacate by January 1, 2014.
  - b. December 30, 2014, John Kevin Edwards contacted Code Compliance and requested a meeting with staff to discuss options.
  - c. January 9, 2014; Mr. Edwards meet with Staff to discuss his situation and provided a note from Darrin Steed to apply for the Variance indicated above.
4. Case History –
  - a. A variance request for 809 Pioneer Ave. was heard by Commission on January 28, 2014, and was presented by Mr. John Kevin Edwards.
  - b. Mr. Edwards identified himself as the individual living in the trailer. During his presentation he expressed the need for his presence on site as the relative living in the existing home is suffering from Alzheimer's and requires additional assistance in daily routines.
  - c. Commission was reluctant to approve a Variance as per Sec. 26-4-552.5 Duration: Every Variance authorized shall not belong to the applicant or owners but shall run with the land and be transferable from owner to owner. Commission briefly discussed alternatives including a Special Use Permit as a possible alternative to a Variance.
  - d. Commission denied the Variance request made by Mr. Steed on January 28, 2014. Commission then further requested that the applicant re-apply with a Special Use permit and that the city waive the standard fees.
5. The purpose for a Special Use permit is described under Sec. 26-4-531: Recognizing that certain uses may be desirable when located in the community, but that these uses

may be incompatible with other uses permitted in a District, certain special uses, when found to be in the special interest of the public health, safety, and general welfare of the city may be permitted by the City Commission through a Special Use Permit.

- a. Per Sec. 26-4-532.4 Approval and Denial, Commission may grant a Special Use permit provided that:
  - i. The public health, safety, and general welfare will not be adversely affected;
  - ii. That adequate off-street parking facilities will be provided; and
  - iii. That necessary safeguards will be provided for the protection of the surrounding property, persons and neighborhood.

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**SUPPORT DOCUMENTS:**

- Application packet
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**COMMUNITY DEVELOPMENT RECOMMENDATION:** The Community Development Department recommends **APPROVING** this application (and waiving all fees) for a Special Use Permit to allow a travel trailer to act as a temporary secondary residence located at 809 Pioneer Ave. in Aztec, New Mexico, for the duration of Mrs. Betty Steed's residence at the property; proof of Mrs. Betty Steed's continuing residence at the property must be submitted to the City of Aztec every six months to maintain the Special Use Permit; the Special Use Permit shall expire as soon as Mrs. Betty Steed's residency at this address is no longer existent; advising Commission to accept Findings of Fact #1-5 and vote "**Yes**" to show the motion as **APPROVED**.

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**RECOMMENDED RULING:** Move to Approve the application (and waiving all fees) for a Special Use Permit to allow a travel trailer to act as a temporary secondary residence located at 809 Pioneer Ave. in Aztec, New Mexico, for the duration of Mrs. Betty Steed's residence at the property; proof of Mrs. Betty Steed's continuing residence at the property must be submitted to the City of Aztec every six months to maintain the Special Use Permit; the Special Use Permit shall expire as soon as Mrs. Betty Steed's residency at this address is no longer existent; accepting Findings of Fact #1-5.

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FEB 4 2014

3:00 pm bell



# CITY OF AZTEC SPECIAL USE APPLICATION

CITY OF AZTEC  
COMMUNITY DEVELOPMENT

Application Year: 2014 Application No.: \_\_\_\_\_ Application Date: \_\_\_\_\_

Applicant Name: Betty Steed (Darrin Steed P.O.A.)

Applicant Address: 809 Pioneer Ave. Aztec N.M. 87410  
(Street Name) (City) (State) (Zip Code)

Applicant Phone: 505-334-2231 (505-334-6954 son Darrin Steed)

Is Applicant Owner of Property? YES

Legal Description of the Property:  
(Or address if different than above) Longs Addition, Lots 3 & 4 Section 09  
Township 30 Rangell Qtr N.E. Qtr Qtr S.E.

Total Area of Property (acres): .3582

Zoning District: 2IN

Present Use of Property: Residential

Desired Use of Property: Residential w/special use

Reason for Requesting a Special Use Permit:

Temporary RV Placement - to be occupied as  
living quarters. Needed for assistance with  
applicant, who has alzheimers.

Plan Map Available?  YES  NO  
(Plan map is required; failure to provide a plan map will cause a delay in the process)

Darrin Steed (P.O.A. for Betty Steed) 1/30/14  
Applicant's Signature Date

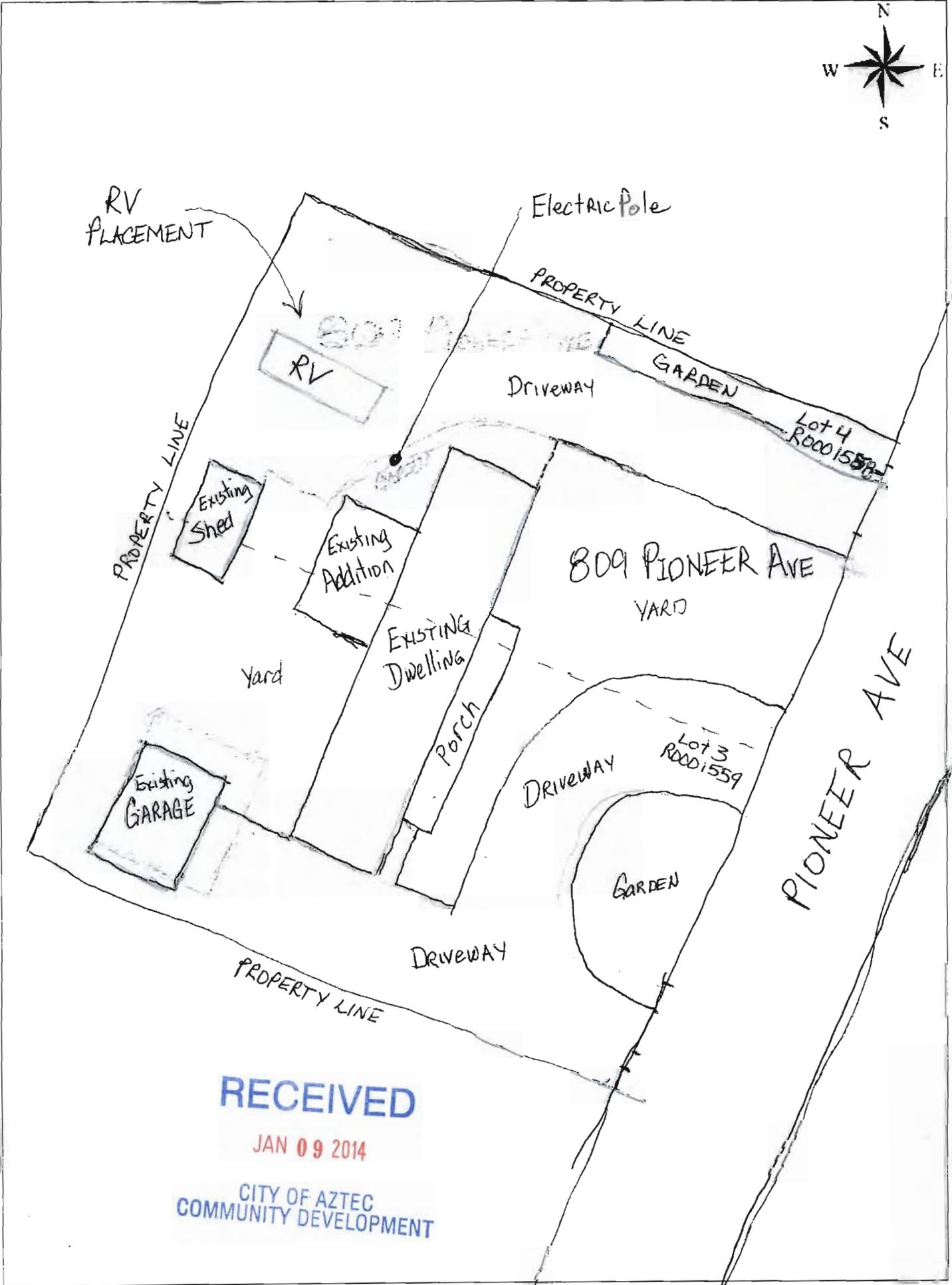
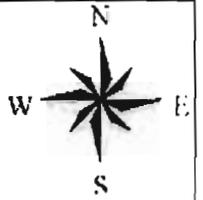
City Commission Meeting Date: \_\_\_\_\_

ACTION: APPROVED DENIED

City Planner \_\_\_\_\_

Date \_\_\_\_\_

# SITE PLAN



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JAN 09 2014

CITY OF AZTEC  
COMMUNITY DEVELOPMENT

# Site Map - 2014-004 809 Pioneer Ave. Variance



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Joshua Hedgpeth, City of Aztec Planning Technician  
(505) 334-7604

# Site Map - 2014-004 809 Pioneer Ave. Variance



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