

**Chapter 5  
ANIMALS**

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## Chapter 5 ANIMALS

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### ARTICLE I. IN GENERAL

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

Violations of this chapter are punishable as provided in Section 1-8.

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

#### **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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

#### **Abandon**

The leaving of any animal by any person without making effective provisions for its proper care, including but not limited to voluntarily vacating or being involuntarily removed from any residential premises. 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 dangerous dog from leaving property.

#### **At Large**

To be free of physical restraint, on or off the Owner's property, that is not fully 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 and 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

**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.
- 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.

**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 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.

**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.

**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, 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.

**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 (Does not include Pot Belly Pigs).

**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.

**Multiple Animal Permit**

A permit issued by Animal Care and 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.

**Nuisance**

An animal that:

- Damages, soils, or defecates on any private property 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.

**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 dangerous animal site, breeder site, or multiple animal site.

**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, 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.

**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 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 as required by State Law.

**Veterinarian**

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

**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 and 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, eff. 2007-Apr-03)

**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, eff. 2007-Apr-03)

**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, eff. 2007-Apr-03)

**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, eff. 2007-Apr-03)

**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 at large, 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-206. Violation Process.**

1. Citations may be issued for any offense of this chapter with or without any warnings.
2. Courtesy Notice. A Courtesy Notice may be sent when violations are reported to, or observed by Animal Control. This is a first level warning and not a citation. This notice will simply advise the animal owner of the violation and give the owner a time frame in which to contact Animal Control to see if and when the issue can be resolved.

3. Intent of Violation Notice. If the animal owner does not respond to the Courtesy Notice within the time given then an Intent of Violation Notice will be sent out informing the animal owner of Animal Controls intent to issue a citation(s) if the issue is not corrected within a specific time frame. The Intent of Violation Notice is a second level warning and not a citation.
4. Citation. If a violation has not been corrected then a Citation from Animal Control will be issued.  
(Ord. 2018-470, eff. 2018-May-01)

**Secs. 5-207 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, eff. 2007-Apr-03)

**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, eff. 2007-Apr-03)

**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, eff. 2007-Apr-03)

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

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

(Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Secs. 5-225 to 5-230. Reserved.**

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**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 an ID tag, anti-rabies tag, or has an identifying tattoo or other identification such as a microchip, the animal shall be confined at Animal Care and Control for a period of at least 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 four (4) days. The Director may dispose of an impounded stray animal the day after the required impoundment period in the following manner:
  - (1) The animal may be adopted;
  - (2) Sent to Rescue; or
  - (3) Euthanized in a humane fashion.
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.

(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**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.
3. The owner of any impounded dog or cat that does not have and I.D. tag or microchip as required by this chapter may redeem the animal by paying the required fees to Animal Care and Control, as established in Article V of Chapter 16 – Fee Schedule.
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, 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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**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 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, 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**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. 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.
3. 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.  
(Ord. 2018-470, eff. 2018-May-01; Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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. 2014-436, eff. 2014-Mar-18 Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-302. 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. 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 Multiple Animal 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 daily.
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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18 Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-303. Identification Required.**

1. Any person owning, possessing or harboring any dog or cat of three (3) months of age or over shall ensure that their animals have Identification Tags affixed to the collar or the animal has a microchip.

(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Secs. 5-304 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, eff. 2007-Apr-03)

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

1. A service animal must be allowed to accompany the handler to any place in the building or facility where members of the public, program participants, customers, or clients are allowed. Even if the business or public program has a “no pets” policy, it may not deny entry to a person with a service animal. Service animals are not pets. So, although a “no pets” policy is perfectly legal, it does not allow a business to exclude service animals.
2. A service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Tasks performed can include, among other things, pulling a wheelchair, retrieving dropped items, alerting a person to a sound, reminding a person to take medication, or pressing an elevator button.
3. Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual’s disability. It does not matter if a person has a note from a doctor that states that the person has a disability and needs to have the animal for emotional support. A doctor’s letter does not turn an animal into a service animal. However A public accommodation or facility is not allowed to ask for documentation or proof that the animal has been certified, trained, or licensed as a service animal; the only two questions that may be asked are:
  - 1) Is the animal required because of a disability?
  - 2) What work or task has the animal been trained to perform?
4. The handler is responsible for the care and supervision of his or her service animal. If a service animal behaves in an unacceptable way and the person with a disability does not control the animal, a business or other entity does not have to allow the animal onto its premises. Uncontrolled barking, jumping on other people, or running away from the handler are examples of unacceptable behavior for a service animal. A business has the right to deny access to a dog that disrupts their business.
5. The animal must be housebroken and the animal must be vaccinated in accordance with state and local laws.

(Ord. 2018-470, eff. 2018-May-01; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-403. Fraudulent Use of Anti-Rabies 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 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 rabies tag or vaccination certificate.  
(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Secs. 5-404 to 5-420. Reserved.****DIVISION 2. CRUELTY TO ANIMALS****Sec. 5-421. Inhumane Treatment of Animals.**

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 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.

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.)
16. 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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

#### **Sec. 5-422. 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

#### **Secs. 5-423 to 5-430. Reserved.**

**DIVISION 3. NUISANCES****Sec. 5-431. Animals at Large.**

1. It is unlawful for the owner of an animal to cause or allow the animal to 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. It is unlawful to Allow an animal to be free of physical restraint off the owners property, and an animal that is not fully confined within a building, shelter, walled or fenced area would be considered at large.
4. 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
5. 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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-432. Animals Disturbing the Peace.**

No person shall allow an animal in his possession or control to persistently or continuously make noise common to its species, or otherwise to disturb the peace and quiet of the inhabitants of the city.

(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-433. Animal Defecation; Cleanup.**

1. 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, eff. 2007-Apr-03)
2. A person owning or having care, custody, or control over a pet such as a dog or cat shall frequently clean and dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied daily and in such a manner so as to prevent a nuisance, noxious smells, or other health hazards.  
(Ord. 2017-467, eff. 2017-Nov-01)

**Secs. 5-434 to 5-440. Reserved.**

**DIVISION 4. MISCELLANEOUS****Sec. 5-441. Sale or Gift of Animals.**

1. No person shall display, sell, offer for sale, barter, auction, give away, or otherwise dispose of any animal upon any street, sidewalk, Public Park, public right of way or other public property, including business or commercial private property open to the public.
2. No person shall offer a live animal as an incentive to purchase merchandise or as a premium, prize, award, or novelty.
3. No person shall offer for sale, sell, and barter or give away turtles except in conformance with appropriate federal regulations.  
(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-442. 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, eff. 2007-Apr-03)

**Sec. 5-443. 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, eff. 2007-Apr-03)

**Sec. 5-444. 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 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Secs. 5-445 to 5-500. Reserved.**

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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 four (4) months to have such animals vaccinated against rabies. The rabies vaccination 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.
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.

(Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

**Sec. 5-502. 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 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

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**ARTICLE VI. DANGEROUS ANIMALS**

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**Sec. 5-601. 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 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

1. A dangerous dog permit shall be required for each property where dangerous dogs are to be kept. 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 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 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

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**ARTICLE VII. PERMITS**

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**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.

(Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

No permit is transferable from one person or place to another person or place.

(Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

A permit holder shall notify Animal Care and Control of any changes 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. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)

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

**DIVISION 2. INTACT ANIMAL****Sec. 5-721. Permit Required.**

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 and Control.
2. 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.
3. The intact animal permit would only be issued in instances where your veterinarian could issue, in writing 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.
4. 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 permit fee as established in Article V of Chapter 16 Fee Schedule.  
(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

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

**DIVISION 3. MULTIPLE ANIMAL PERMIT****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 Multiple Animal Permit issued under this section.
2. A Multiple Animal 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 site shall be limited to 10% of the total area of the premises.
  - (3) Within the area of the permitted 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.  
(Ord. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18)

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

1. Any permit issued under this section will be revoked if any of 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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.

(Ord. 2014-436, eff. 2014-Mar-18)

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

**DIVISION 4. BREEDER PERMIT****Sec. 5-741. Breeder Permit Required.**

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 and 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.
  - (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) 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.

- (5) 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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**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.  
(Ord. 2014-436, eff. 2014-Mar-18)

**Secs. 5-746 to 5-800. Reserved.**

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**ARTICLE VIII. SPAY AND NEUTER**

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**Sec. 5-801. Mandatory Spay and Neuter.**

No person shall own or harbor within the City of Aztec any cat or dog over the age of three (3) months which has not been spayed or neutered, unless:

1. That person holds either an Intact Animal Permit or a Breeders Permit for breeding cats or dogs issued under Article VII of this Chapter; or
2. A veterinarian has certified, in writing, 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. 2018-470, eff. 2018-May-01; Ord. 2014-436, eff. 2014-Mar-18; Ord. 2007-344, eff. 2007-Apr-03)