

Chapter 5 ANIMALS

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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.

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.

Anti-Escape Devise

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

Bite

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

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, 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 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.

Director

The Executive Director of Animal Control and the Animal Shelter.

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

Euthansia

The administration of an agent which shall cause the death of an animal. 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.

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.

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.

Kennel Permit

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 breeders permit must also be obtained through Animal Care and Control)

Impounding facilities

Any Animal Care and Control, 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.

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, Horses, mules, donkeys, 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).

Nuisance

An animal that:

- Damages, soils, demes or defecates on private property (other than the owners) or on public walks and recreation areas; or
- Causes unsanitary, dangerous, or offensive conditions; or
- 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.

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, dangerous animal, hobby breeder site, animal exhibit site, exotic or wild animal site, multiple animal site, or premises where guard dogs are on duty.

Premises

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

Quarantine

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.

Stray animal

Any animal running at large.

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.

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.

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.**ARTICLE II. ADMINISTRATION AND PROCEDURES****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.
(Ord. 2007-344, 03 Apr 2007)

Secs. 5-205 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 PROCEDURES

Sec. 5-231. Impounding Strays.

1. All strays may be impounded.

2. 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 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 days. The Animal Shelter Director may dispose of an impounded stray animal the day following the required impoundment period in the following manner:
 - (1) The animal may be adopted;
 - (2) Sent to Rescue; or
 - (3) Destroyed in humane fashion, as the Animal Care and Control Director deems proper.
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 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.

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 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 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 also shall reimburse the city for all boarding, medical and maintenance costs incurred by the city during the impoundment.
5. 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. The date and manner of its disposal;
4. The name, address and telephone number, if any, of the party adopting or redeeming the animal;
5. All fees received; and
6. 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)

Secs. 5-234 to 5-300. Reserved.

ARTICLE III. OWNER DUTIES

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 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. 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.
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.
3. The animal must have easy access to adequate shade, shelter, food and potable water.
4. 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.
5. The area where the animal is confined must be kept free of insect infestation, such as ant hills, wasp's nests, 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. 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 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 to 5-400. Reserved.

ARTICLE IV. PROHIBITED ACTIONS

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 to 5-420. Reserved.

DIVISION 2. CRUELTY TO ANIMALS**Sec. 5-421. Generally.**

1. It is unlawful for any person to 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, 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.

(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. Leg hold Traps Prohibited.

It shall be unlawful for any person to set steel-jawed leg hold traps within the limits of the city.

(Ord. 2007-344, 03 Apr 2007)

Secs. 5-432 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 at large in or on any public property or any other property without the permission of the owner of the property.
2. Any animal running at large in violation of this subsection may be taken up and impounded by the Animal Control Officer.
3. 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 Animal Control Officers have the right to impound 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.

(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. 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 to 5-460. Reserved.**DIVISION 4. MISCELLANEOUS****Sec. 5-461. Sale or Gift of Animals.**

1. 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.
2. 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 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.
3. 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.
4. 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. Turtles. No person shall offer for sale, sell, 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. 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. 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.
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. 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 to 5-500. Reserved.

ARTICLE V. RABIES CONTROL

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) 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. A certificate from a licensed Veterinarian shall be evidence of vaccination. The Director may require other animals to receive annual rabies vaccinations.
2. 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.
3. It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of vaccination upon demand by the Director or by any Animal Control Officer.
4. 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 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. 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. A quarantine shall not be removed except by order of the District Health Officer.

(Ord. 2007-344, 03 Apr 2007)

Sec. 5-504. 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 to 5-600. Reserved.

ARTICLE VI. VICIOUS 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. 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 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. Permit Requirements.

1. Unless a dangerous dog permit is in effect for each property where dangerous dogs are to be used, 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 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 to 5-700. Reserved.

ARTICLE VII. 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 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. 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. Permittees, who keep animals confined, shall, at the option of the permittee, 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.
11. 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.

(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 kennel, 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.

1. 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.
2. 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.
 - (3) In a residential zone, the area of the permitted Animal Fancier site or multiple animal sites shall be limited to 10% of the total area of the premises.
 - (4) Within the area of a multiple animal site:

- (d) 75 square feet of area shall be provided for each animal weighing under 30 pounds;
 - (e) 100 square feet for each animal weighing between 30 and 49 pounds; and
 - (f) 125 square feet for each animal weighing 50 pounds or more.
3. Payment of a permit fee per year as established in Article V of Chapter 16 – Fee Schedule.
 4. 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.

1. Any permit issued under this section may be revoked if any if any the following conditions exist:
 - (1) The permittee has violated any City ordinances or New Mexico laws relating to the keeping, care or use of any animal;
 - (2) The permittee 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 permittee 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
2. 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.
3. The permittee 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 shall administer 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.**ARTICLE VIII. POPULATION CONTROL****Sec. 5-801. Mandatory Spaying and Neutering.**

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

1. That person holds either a permit to keep an unaltered dog or cat or a 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.**ARTICLE IX. EXOTIC ANIMALS AND GUARD DOGS****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 permittee 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. 5-902 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:
 - (1) The business name, address and telephone number of the commercial property where guard dogs are to be used;
 - (2) The name, address and telephone number of the handler who can be reached at any time during the day or night;
 - (3) The number of dogs to be used and a general description of their use;
 - (4) The location where dogs are to be housed; and

- (5) 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 comers 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)