

**Chapter 22  
PUBLIC PROPERTY**

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## Chapter 22 PUBLIC PROPERTY

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### ARTICLE I. IN GENERAL

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**Sec. 22-1. Penalty.**

Violations of this chapter are punishable as provided in Section 1-8.  
(Code 2007, 22-1)

**Secs. 22-2 to 22-20. Reserved.**

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### ARTICLE II. CURB ACTS

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**Sec. 22-21. Permit.**

1. If any person desires to remove existing curbing or any portion thereof in the city, approval for such purpose shall first be obtained from the city engineer or the city manager and a permit shall be obtained from the city clerk upon payment of a fee of ten dollars (\$10.00).
2. No curbing shall be removed by any person unless the provisions required for in Section 22-21 above are first complied with, except that the city in doing street work may remove or replace curbing, and a contractor or other person authorized by the city may remove, build or replace curbing in performing work in the improvement of the city streets, without it being necessary to obtain a permit as provided herein.

(Code 2007, 22-21)

**Sec. 22-22. Done Only When Necessary, Supervision.**

The breaking down, building or replacing of curbing in the streets of the city, as provided in Section 22-21, shall only be done when it is necessary and it shall be under the general supervision of the city engineer or the city manager and the amount of curb to be torn down and replaced shall first be approved by the city engineer or city manager.

(Code 2007, 22-22)

**Secs. 22-23 to 22-40. Reserved.**

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**ARTICLE III. EXCAVATIONS**

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**DIVISION 1. GENERALLY****Sec. 22-41. Opening Pavement; Closing; Cost.**

1. The holder of a permit issued under this article may have a proper opening or hole cut in the pavement under the direction of the city at the place specified in the application and shall keep such opening barricaded for the protection of all motorists or pedestrians.
2. The permittee shall complete all necessary work as promptly as possible and shall notify the city manager immediately when the hole is ready to be closed. All such openings shall then be closed with a ninety (90) percent compaction required and the pavement will be replaced by the city under the supervision of the city manager.
3. The cost of labor and material and a reasonable charge for use of equipment shall be paid by the permittee to the city at the office of the city clerk. Replacement cost shall be at two dollars (\$2.00) per square foot.  
(Code 2007, 22-41)

**Secs. 22-42 to 22-70. Reserved.****DIVISION 2. PERMIT****Sec. 22-71. Required.**

It shall be unlawful for any person to cut any opening or hole in the pavement of any street or alley in the city without first having secured a permit from the city.  
(Code 2007, 22-71)

**Sec. 22-72. Application.**

Every person desiring to cut an opening or hole in any paved street or alley of the city shall fill out an application form which will be furnished to any person desiring the same by the city manager. The form shall include sufficient information to enable the city manager to determine whether the person making the application has a good and sufficient reason for having an opening or hole cut in said pavement.  
(Code 2007, 22-72)

**Sec. 22-73. Action on Application.**

The city manager shall examine each application for a permit under this division and shall make any investigation he deems necessary to determine whether the necessity exists for the cutting of an opening or hole in the pavement, and shall, when his investigation is completed, either reject or approve the application.  
(Code 2007, 22-73)

**Sec. 22-74. Issuance; Fee.**

The city clerk shall, upon presentation of an application approved by the city manager, and upon

payment of a fee of thirty-five dollars (\$35.00), issue a permit to the applicant for the cutting of an opening or hole in the pavement at a specific location and for a specific purpose.  
(Code 2007, 22-74)

**Secs. 22-75 to 22-90. Reserved.**

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**ARTICLE IV. ENCROACHMENTS ON CITY PROPERTY**

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**Sec. 22-91. Unlawful.**

No person shall encroach on, in, over, or under any real property owned by the city or any public right-of-way owned by the city, including easements, by any structure or object of any kind or character, temporary or permanent in nature and whether such encroachment is real, personal or mixed property.  
(Code 2007, 22-91)

**Sec. 22-92. Exemptions.**

Section 22-91 shall not apply to those encroachments which:

1. After applying the criteria of Section 22-91 are not encroachments by law;
2. Are authorized by a valid un-revoked permit granted as provided in this article;
3. Are authorized by valid written agreement made by and between the city and an owner of real property under terms and conditions similar to those set forth in this article and otherwise protecting the rights of third parties and the public in general;
4. Are authorized by another section of this Code (Chapter 23 Subdivisions and Chapter 26 Land Use).  
(Code 2007, 22-92)

**Sec. 22-93. Application for Permit.**

1. Application for a revocable permit to encroach on city owned property shall be made by and in the name of the owner or of person lawfully entitled to use the real property in connection with which the permit is sought to be obtained and shall be acknowledged by the applicant.
2. The application shall set forth the name and address of the applicant, the nature and description of the proposed encroachment, the location and description of city-owned property proposed to be encroached upon, the nature of the applicant's interest in and the location and the legal description of the property in connection with which the permit is sought to be obtained, the reasons for the application, such other information, including plats, as may be required by the planning office, and the following statement:

*I understand and agree that any permit issued hereon shall be issued pursuant and subject to the provisions of Chapter 22 of the Aztec City Code, that such permit may be revoked by the City of Aztec, acting by and through its Planning*

*department, at any time, and that the encroachment must be removed within 30 days thereafter; that no right, title or interest in any property owned by the City of Aztec shall vest or accrue to me by any reason of the issuance of such permit or exercise of the privilege given thereby; that I will not suffer or permit any dangerous or defective condition of property to exist in connection with the exercise of the privilege; and that I will hold harmless the City of Aztec for any damages arising out of, from or in connection with the exercise of the privilege granted by the issuance of the permit sought.*

3. The application shall be filed with the Planning Department and shall be referred to other departments as might be affected by the issuance of this permit for their recommendation and comments. After such reference, the Planning Department shall approve such application and issue the permit requested if the application shows:
  - (1) The proposed permit would not cause public property to become dangerous or hazardous to the public when used by the public for which it was intended to be used;
  - (2) The proposed encroachment will not in itself become in a dangerous or defective condition or unreasonably endanger or interfere with the public health, safety or convenience;
  - (3) The encroachment will not become unsightly; and
  - (4) The issuance of the permit is otherwise in the interests of the health, safety and welfare of the citizens of the city.
4. If an application is made to the Planning Department which does not meet the conditions as stated in this section, the Planning Department may deny such application or may approve such application subject to such terms and conditions as considered necessary to make the proposed encroachment meet the standards of this section.  
(Code 2007, 22-93)

#### **Sec. 22-94. Permit Issuance, Fee, Privileges Granted, Expiration, Renewal.**

1. If the permit required by this article is approved, the Planning Department shall collect a fee of seventy-five dollars (\$75.00) to recover the costs of handling the application and shall issue an encroachment permit.
2. Each permit shall be construed as authorizing merely the temporary privilege to encroach to the extent permitted and subject to the conditions therein stated. No permit shall be deemed to transfer any right, title or interest of the city.
3. Each permit may be renewed for successive five-year periods without payment of an additional permit fee.  
(Code 2007, 22-94)

#### **Sec. 22-95. Revocation of Permit.**

Whenever it shall appear to the Planning Department that the approved encroachment does not meet the conditions for issuance as set out in Section 22-97 or does not meet any conditions imposed upon issuance of the permit, the Planning Department shall advise the applicant that

the permit has been revoked and that the applicant has thirty (30) days in which to remove the encroachment.

(Code 2007, 22-95)

### **Sec. 22-96. Liability of Permittee.**

By acceptance of performance of the privilege or any part thereof under a permit issued pursuant to this article, the permittee or his heirs, successors or assigns shall not allow, by commission or omission, any dangerous or defective condition to exist and any time in, on, under or across the property for which the permit is issued and shall hold harmless the city for any and all injuries or damages caused to any person or property arising out of the permittee's use of the permit property.

(Code 2007, 22-96)

### **Sec. 22-97. Removal.**

Encroachments permitted under this article shall be removed immediately after expiration or cancellation of the permit. Any encroachment not removed is declared to be a nuisance. Failure, neglect or refusal to remove an unauthorized encroachment within thirty (30) days after notice by the city shall constitute a misdemeanor punishable as set forth in Section 1-8 of this Code. As additional remedies, the city may remove such encroachment and collect the entire cost and expense thereof from the person responsible therefore, may compel its removal or abatement by instituting the proper proceedings in a court of competent jurisdiction, or shall pursue other remedies as may be available to it at law or equity. If the permittee sought the permit in conjunction with land owned by him, the cost of removing any encroachment incurred by the city shall constitute a lien on such property.

(Code 2007, 22-97)

### **Sec. 22-98. Appeals.**

If any person is aggrieved by the actions of the zoning administrator taken pursuant to this article, the aggrieved person shall appeal the decision of the zoning administrator to the city commission by advising the city clerk of his intent to do so within thirty (30) days after the decision complained of. Upon receipt of notice of an appeal by the aggrieved person, the city clerk shall schedule a hearing before the city commission on the agenda of the next regularly scheduled meeting. The purpose of the hearing will be to determine if the decision of the zoning administrator was properly made pursuant to this article. If the person is aggrieved by the decision of the city commission he shall appeal to the district court within a period of thirty (30) days from such decision.

(Code 2007, 22-98)

### **Secs. 22-99 to 22-500. Reserved.**

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**ARTICLE V. USE OF PARKS & RECREATION AREAS**

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**Sec. 22-501. Hours When Parks and Recreation Areas are Closed.**

The City of Aztec parks and recreational areas shall be closed between the hours of 12:00 am to 5:00 am. This includes all trails and the following parks:

- Hartman Park
- Main Avenue Courtyard
- Riverside Park
- Tiger Park

The following parks shall be closed from 10:00 pm to 5:00 am:

- Cap Walls Park
- Florence Park.

The City may extend hours of use to allow special use of areas and facilities for meetings, receptions, special events, emergencies, or for any other use the City deems suitable. Uses of such areas beyond the times specified by a citizen, group of citizens or organization other than the City requires a permit.

The City may close any area or part thereof; or the use of any facility, when it appears that its capacity has been filled; the use of an area or facility would endanger the public safety; for the protection of the area or facility itself; or for purposes of construction or maintenance of an area or facility.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-502. Eviction for Violation.**

Violation of any provision of these regulations is sufficient cause for ejection from a park or recreation area and can be prosecutable.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-503. Permits and Exceptions.**

1. A permit shall be obtained from the Utility Office for reservations of any area in a park or recreational area for special or private use.
2. A variance shall be requested through the Utility Office for the relief from these regulations on special occasions. Final approval of the variance will be through the City Commission.
3. Exceptions or amendments to these regulations is permissible only through a signed agreement between the City and an organization for the purposes of sports or special events.
4. As a condition of use, all permit holders agree to indemnify and hold the City of Aztec, its officers and employees harmless from any and all claims arising from the operation of a permit, or from the negligence or carelessness of the permit holder, its members or agents.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-504. Permit Application Procedure.**

1. Permits in General. No permit shall be issued until an application has been filed with the Utility Office together with the required fee and security deposit established in Chapter 16 Fee Schedule. The following information must be submitted with each application regardless of permit type:
  - 1) The name, address, and telephone number of the applicant.
  - 2) Name and address of the person or organization sponsoring the activity.
  - 3) Dates and hours the proposed activity will be conducted and the nature of such activity.
  - 4) The park or recreation area desired.
  - 5) An estimate of the number of persons attending and/or participating.
  - 6) Such other information as may be required to determine whether such permit may be issued.
  - 7) The Police Chief, or designee, shall determine, whether the nature of the proposed activity will require the attendance of police officers for the protection and safety of the participants and the public. All such police officers deemed necessary shall be furnished by the City at the applicant's expense, the amount of which shall be paid prior to the issuance of the permit.
  - 8) The applicant and the sponsoring person or organization shall be jointly and severally liable for any damage or injury to the park or any facility therein sustained during the permitted activity.
  - 9) The security deposit shall be returned to the applicant after the inspection of the activity area by the Parks & Recreation Director, or designee, and a finding of the activity area in good order. In the event of damage or unclean conditions the Parks & Recreation Director may, declare a forfeit of said deposit per agreement.
  - 10) The City Commission shall establish rental and security fees as per Chapter 16 Fee Schedule.
  - 11) The City shall grant such permit if it is found that the activity will not be detrimental to the facility.
2. Permit Types. Depending upon the permit type, additional information or preparation may be required. The permit types are as follows:
  - 1) Individual/Private Permit. These permits are intended for use of the pavilions/shelters for individual or family events/celebrations. Exclusive use during these events does not extend to other parts of the park or recreational areas and city services are not required.
    - (1) Application must be made at least 1 day before the proposed activity.

- 2) Special Event Permit (open to public). These permits are intended for the use of pavilions/shelters, park areas, and possible need for city services. Such events are open to the general public.
  - (1) Application must be made at least thirty (30) business days before the date of the proposed activity, provided that no additional city services are required.
  
- 3) Special Event Permit (private, not open to public). These permits are intended for the use of pavilions/shelters, park areas, and may require additional city services. Such events are exclusive and intended for private or corporate sponsored events which are not open to the general public.
  - (1) Application must be made at least thirty (30) business days before the date of the proposed activity, provided that no additional city services are required.  
(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-505. Police Personnel Required.**

A police officer shall be present at all sponsored activities, events and occasions in city parks and recreational areas at which alcoholic beverages are being served, or when a security issue may be of concern.

(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-506. Alcoholic Beverages.**

The bringing in, possession, or drinking of alcoholic beverages at any park or recreation area is prohibited unless a permit is obtained and an applicant produces the proper insurance coverage. Police presence for security is required.

(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-507. Buildings, Structures, Amenities, Vegetation, and Equipment.**

No person shall deface, remove, destroy or otherwise damage in any manner whatsoever, any structure or appurtenance, equipment, or park property, tree, flower, shrub, or landscaping within a park or recreation area.

(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-508. Hunting and Carrying of Firearms Regulated.**

Hunting or the carrying or discharge of dangerous weapons as defined in Chapter 12, Article V is not permitted in any park or recreation area.

(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-509. Camping Regulated.**

Camping in parks or recreation areas may be allowed only at such times, and in such areas, as may be deemed appropriate by the City and then only through the acquisition of a permit.

(Ord. 2011-400, eff. 31-Aug-2011)

#### **Sec. 22-510. Fires.**

1. The kindling of fires is restricted to fireplaces provided for that purpose.
2. Dumping of coals or ashes in the City Parks or recreational areas is prohibited.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-511. Glass Containers.**

The use, possession, bringing in, or carrying of glass bottles, drinking glasses, or other glass containers in City parks or recreational areas is prohibited.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-512. Pets and Riding Animals.**

1. Domestic pets are prohibited in buildings or other areas so designated by signs posted by the City. Domestic pets are permitted in non-restricted park and recreation areas on leash only and under the control of their owner and/or keeper. Leashes shall not exceed seven (7) feet in length.
2. Horses and other riding animals are restricted to trail areas and/or at the Riverside Park Rodeo Arena. They are prohibited in picnic areas, grass fields, and athletic fields.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-513. Commercial Use of Public Properties.**

The use of City parks or recreational areas or the use of any facility thereon for private gain or commercial purposes is prohibited. Excluded are concessionaires, vendors, or other organizational groups who have been approved by the City and received a permit.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-514. Motor Vehicles.**

1. It shall be unlawful to operate a motor vehicle on roads other than those established and/or on parking lots provided for such purpose.
2. Speed limit at all parks is fifteen (15) miles per hour unless posted differently otherwise.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-515. Swimming and Boating.**

1. Swimming and boating shall not be allowed in the City Reservoirs, except as required by the Water Department for purposes of maintenance or investigations.
2. No watercraft shall be launched from any city owned property or park except where designated by signage.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-516. Use of Athletic Fields.**

The use of the athletic fields shall be scheduled through the Parks and Recreation Department.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-517. Disposal of Refuse.**

No person shall leave or discard paper, glass, garbage or other refuse on the grounds or buildings or on the waters of city parks or recreational areas.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-518. Disorderly Conduct.**

The commission of a nuisance, behavior deemed unsafe by a city employee and/or city police, or obscene/indecent behavior is prohibited.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-519. Amplified Music.**

No amplified music, whether live or recorded, is allowed at any park or recreation area. The City may allow exceptions to this regulation under certain circumstances and through a permit process for a special event.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-520. Projectiles.**

No person shall use projectiles that could cause bodily harm to people or cause damage to city property. Projectiles are considered as an object sent through the air by the application of some force that could function as a weapon.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-521. Signs.**

No person shall place signs, markers or instructions on city property without authorization from the Parks & Recreation and/or Community Development office. Permit Holders must remove all signs once the event has ended.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-522. Washing.**

No person shall wash clothing or materials or clean fish in ponds, reservoirs, or restrooms on City property.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-523. Defecation.**

No person shall urinate or defecate on City property except in restrooms or portable toilets provided for that purpose.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-524. Wildlife.**

1. Removal of wildlife (excluding fish) from parks or recreational areas is prohibited.
2. Feeding of wildlife is prohibited.
3. Molesting or disturbing wildlife, birds, or nesting places is prohibited.

(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-525. Fishing.**

1. New Mexico Game and Fish regulations govern all fishing activities.
2. New Mexico State fishing license is required for each individual.
3. Fishing is permissible at Riverside Park pond, Tiger Park reservoir, and along the shores of the Animas River.
4. Fish shall not be cleaned at location.
5. All bait and tackle artifacts are to be removed upon departure.
6. Fishing is not permissible from any motor or pedestrian bridges.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-526. Motorized Hobby Crafts.**

1. Motorized airplanes and helicopters are not permitted within the city parks or recreational areas.
2. Motorized boats are permissible at Riverside Pond and Tiger Park Reservoir, however such crafts must be electrical and not gas powered.  
(Ord. 2011-400, eff. 31-Aug-2011)

**Sec. 22-527. Ice Sports.**

1. Ice fishing is prohibited.
2. Ice skating is prohibited.  
(Ord. 2011-400, eff. 31-Aug-2011)