

## AZTEC ANIMAL CONTROL ORDINANCE

### Aztec Chapter 5 - ANIMALS\*

Art 1. In General, §§ 5-1-5-35

Art. H. Rabies Control, §§ 5.36-5-55

Art. M. Vicious Animal, §§ 5-50-5-58

\*Cross reference-Health, Ch. 10.

**State law references**—Municipal authority to regulate animals, NMSA 1978, § 3-18-3; offenses relating to animals, NMSA 1978, § 30-18-1 et seq. 231

### ANIMALS

#### ARTICLE 1: IN GENERAL

##### SEC. 5-1. DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Abandon.** "Abandon" means the leaving of any animal by any person without making effective provisions for its proper care.

**Animal.** "Animal" means any vertebrate member of the animal kingdom excluding man.

**Animal destroyed.** "Animal destroyed" means 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.

**Bite.** "Bite" means the puncture or tear of the skin inflicted by the teeth of an animal.

**Confined.** "Confined" means 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.

**Department.** "Department" means the health and environment department of the state.

**District health officer.** "District health officer" means the person designated by the director of the division to be responsible for district health operations in a district organized by the division.

**Division.** "Division" means the health services division of the health and environment department of the state, Post Office Box 968, Santa Fe, New Mexico 87503.

**Exposure to rabies.** "Exposure to rabies" means 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.** "Field health office" means the health offices located in the county and administered by the division.

**Impounding facilities.** "Impounding facilities" means any animal control center, 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.** "Isolation" means the confinement of an animal in an escape proof run or cage so that there is no possibility of direct contact with other animals or humans.

**Laboratory.** "Laboratory" means the scientific laboratory division (SLD) of the health and environment department of the state, 700 Camino de Salud, Albuquerque, New Mexico 87106.

**Livestock.** "Livestock" means all domestic animals of the following genera: equine, bovine, ovine, caprine and porcine.

**Nuisance.** "Nuisance" means an animal that:

- (1) Damages, soils, defiles or defecates on private property (other than the owners) or on public walks and recreation areas;
- (2) Causes unsanitary, dangerous, or offensive conditions;
- (3) Molests, attacks or interferes with persons in the public right-of-way;
- (4) Chases vehicles or attacks other domestic animals;
- (5) Roams freely onto another person's property without permission.

**Owner.** "Owner" means a person who owns, harbors, keeps or knowingly permits an animal to be harbored or kept, or permits an animal to remain on his premises.

**Premises.** "Premises" means any parcel of land and the structures thereon.

**Quarantine.** "Quarantine" means the strict containment of all animals specified in the order of the district health officer upon the private premises of the owner, or under restraint by leash, or within a closed cage or paddock and shall include other measures ordered by the district health officer to control the spread of rabies.

**Running at large.** "Running at large" means to be free of physical restraint. Animals abandoned without obvious ownership are also considered running at large.

**Stray animal.** "Stray animal" means any animal running at large.

**Vaccination against rabies.** "Vaccination rabies" mean the injection of an approved rabies vaccine by or under the supervision of a licensed veterinarian.

**Veterinarian.** "Veterinarian" means a person with a doctor of veterinary medicine degree licensed to practice veterinary medicine in the state.

**Vicious or dangerous animal.** "Vicious or dangerous animal" means any animal which at any time without provocation shall bite, attack or injure any person who was peacefully conducting himself where he lawfully may be. Animals ferae nature in the eyes of the law are defined as dangerous. (Ord. No. 86-377, § 2(6-1-2), 8-5-86) Cross reference-Definitions and rules of construction generally, § 1-2.

**SEC. 5-2. PENALTY.**

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

**SEC. 5-3. ANIMAL CONTROL OFFICERS.**

- (a) The city shall employ part-time or full-time animal control officers as it may deem from time to time necessary whose duties will be to enforce the provisions of this chapter.
- (b) The animal control officers employed by the city shall prevent and control the spread of rabies within the city by enforcing the provisions of this chapter.
- (c) Animal control officers will receive such training as the city may find necessary to enable the animal control officers to perform their duties hereunder.
- (d) The animal control officer shall have the authority to decide to dispose of diseased or injured animals without following the normal impounding procedures. The animal control officer's decision shall be final so as to protect the healthy animals impounded in the city facilities.
- (e) In enforcing the provisions of this chapter, the animal control officer is authorized to pursue animals running at large, a vicious animal, animals molesting livestock, or any animal with symptoms of rabies onto private premises unless permission to make such pursuit is explicitly refused by the occupant.

(Ord. No. 86-377, § 6(6-1-18), 8-5-86)

**SEC. 5-4. INTERFERENCE WITH OFFICERS.**

It shall be a misdemeanor for any person to interfere with a police officer or an enforcement agent in the performance of his duties in regard to this chapter. (Ord. No. 86-377, § 6(6-1-20), 8-5-86)

**SEC. 5-5. IMPOUNDING OF ANIMALS.**

The city shall provide impoundment facilities as follows:

- (1) The city shall provide impoundment facilities for the confinement of all unowned animals susceptible to rabies which have bitten a person. The animal shall be either destroyed or confined for a period of ten (10) days and if the animal dies or is destroyed during the confinement period, the head shall be sent to the laboratory for rabies testing. Impounding facilities will be provided for the confinement of animals running at large, vicious animals and animals attacking livestock. Impoundment facilities may be provided for by contract with a veterinary hospital, a kennel, an animal shelter or in cooperation with other municipalities or counties. Upon release by owner, the animal control officer shall have authority to dispose of an impounded animal without the normal three-day waiting period. (Ord. No. 86-377, § 6(6-1-16), 8-5-86)

**State law reference**—Municipality required to provide for impoundment of certain dogs and cats, NMSA 1978, § 77-1-12.

**SEC. 5-6. IMPOUNDMENT FEES AND COSTS.**

- (a) Each stray animal impounded shall be kept and maintained at the pound for a minimum of three (3) days except, when owner is identified, such animal can be picked up within the three-day minimum. At the expiration of the impoundment period, anyone may claim the animal, provided, however, that such person pays an impoundment fee of ten dollars (\$10.00), and two dollars and fifty cents (\$2.50) per day and complies with the licensing provisions of this chapter. If no person claims the animal, the animal control officer will dispose of the animal in a humane manner.
- (b) Impoundment costs shall include an assessment of ten dollars (\$10.00) for the first time an animal is impounded, twenty dollars (\$20.00) for the second time the same animal is impounded, thirty dollars (\$30.00) for the third time such animal is impounded and forty dollars (\$40.00) for all subsequent times the animal is impounded.
- (c) In addition to the charge for impoundment, an additional fee of two dollars and fifty cents (\$2.50) per day shall be charged for the daily care of impounded animals, and miscellaneous small animals. Charges for daily care and feeding of all other animals impounded shall be five dollars (\$5.00) per day.
- (d) Upon notice animal has been impounded, the owner becomes responsible for all expenses incurred by the city, including a disposal charge of five dollars (\$5.00) if that is the case.

(Ord. No. 86-377, § 6(6-1-17), 8-5-86)

**SEC. 5-7. NONOWNER POSSESSION PROHIBITED.**

It is unlawful for any person, without the knowledge and consent of owner, to hold or retain the possession of any animal of which he is not the owner. (Ord. No. 86-377, § 6(6-1-27), 8-5-86)

**SEC. 5-8. LIABILITY FOR DAMAGES CAUSED BY ANIMALS.**

If any animal shall do damage to either the body or the property of any person, the owner, or if the owner is a minor, the parent or guardian of such minor shall be liable for such damage, unless such damage shall have been occasioned to the body or property of a person who, at the time of such damage, was committing a trespass or other tort or was teasing, tormenting or abusing such animal. (Ord. No. 86-377, § 6(6-1-13(B)), 8-5-86)235 § 5-13

**SEC. 5-9. CRUELTY TO ANIMALS PROHIBITED.**

It shall be unlawful for any animal owner to fail to provide his animals sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. It shall be unlawful for any person to beat, cruelly ill treat, torment, overload, overwork, poison, cruelly kill or otherwise abuse any animal, or cause or permit any cockfight, bullfight or other combat between animals or between animals and humans. This section shall not apply to the



destruction of predatory wild animals and rodent pests, as provided for in NMSA 1978, Ch. 77, art. 17 [§ 77-15-1 et seq.] nor is it the intent of this section to prohibit the use of poisonous substances for the control of vermin or significance to the public health.

(Ord. No. 86-377, § 2(6-1-12(A)), 8-5-86)

**State law references**—Cruelty to animals, NMSA 1978, § 30-18-1; dog fights, NMSA 1978, § 30-18-9.

#### **SEC. 5-10. LEGHOLD TRAPS PROHIBITED.**

It shall be unlawful for any person to set steeljawed leghold traps within the limits of the city. (Ord. No. 86-377, § 2(6-1-12(B)), 8-5-86)

#### **SEC. 5-11. OWNERSHIP OF NUISANCE ANIMALS.**

It shall be unlawful for any person to own any animal which is found to be a nuisance. (Ord. No. 86-377, § 2(6-1-13(A)), 8-5-86)

#### **SEC. 5.12. ABANDONMENT.**

Any person who willfully abandons his dog or cat within the city is guilty of a misdemeanor. (Ord. No. 86-377, § 6(6-1-14), 8-5-86)

#### **SEC. 5-13. DOGS AND CATS TO BE LICENSED.**

- (a) Dogs and cats over the age of three (3) months shall be licensed. It shall be a violation of this chapter for any owner to fail to license or have in his possession an unlicensed animal pursuant to this section.
- (b) Upon such animal being licensed a certificate and tag will be issued. The certificate shall contain the name and address of the owner of the animal, a description of the animal, proof of rabies vaccination and the expiration date of the license.
- (c) A combination rabies certificate and city license shall be permitted.
- (d) License fees for all natural male and female dogs and cats will be five dollars (\$5.00). License fees for all neutered male and female dogs and cats shall be three dollars (\$3.00). Proof of neuter and spayed dogs and cats will be required to receive the neutered rate.

(Ord. No. 86-377, § 6(6-1-15), 8-5-86)

#### **SEC. 5-14. ANIMAL RUNNING AT LARGE PROHIBITED.**

Animals running at large are prohibited and owners, if identified, are to be considered in violation. Cats are excluded from this section because of their nature.

(Ord. No. 86-377, § 2(6-1-11), 8-5-86)

#### **SEC. 5.15. FEMALE DOGS IN HEAT.**

Any unspayed dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen, or other enclosure shall be so constructed or situated as to prevent other dogs from gaining access to such enclosure. (Ord. No. 86-377, § 6(6-1-12), 8-5-86)

#### **SEC. 5-16. NOISES.**

It is unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night. (Ord. No. 86-377, § 6(6-1-24), 8-5-86)

#### **SEC. 5-17. ODORS.**

Areas of animal confinement will be kept in a clean condition and not allowed to become an odor nuisance. (Ord. No. 86-377, § 6(6-1-25), 8-5-86)

#### **SEC. 5-18. 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 the police department. 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. No. 86-377, § 6(6-1-26), 8-5-86)

#### **Sec. 5-19. City parks.**

Animals will be prohibited in areas of city parks so posted and 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 of such park that is posted "Animals Prohibited". (Ord. No. 86-377, § 6(6-1-28), 8-5-86) Cross reference—Parks and recreation, Ch. 16.

#### **SEC. 5-20. DANGEROUS ANIMALS.**

- (a) It is unlawful to permit any dangerous, vicious animal of any kind to run at large within the city, and such animals shall be immediately impounded by the police department. Exhibitions or parades of animals which are ferae nature in the eyes of the law may be conducted only upon securing a permit from the chief of police.
  - (b) The members of the police department are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.
- (Ord. No. 86-377, § 6(6-1-22, 6-1-23), 8-5-86)

#### **SECS. 5-21-5-35. RESERVED.**

### **ARTICLE H: RABIES CONTROL**

#### **SEC. 5-36. VACCINATION REQUIRED.**

- (a) Dogs and cats over the age of three (3) months shall be vaccinated against rabies annually with a vaccine approved by the state. The "Compendium of Animal Rabies Vaccines (carv)" published by the National Association of Public Health Veterinarians, Inc., shall be the reference for the route of inoculation (IM) and the type of vaccine.
- (b) Rabies vaccine shall not be distributed except by a veterinarian.
- (c) The veterinarian who administers rabies vaccine to a dog or cat shall issue to the owner a serially numbered



vaccination certificate containing, the name of the veterinarian, the type of vaccine used, the initials of the product of the vaccine, the name and address of the owner, a description the dog or cat vaccinated, the date of the vaccination and the expiration date for the period of immunity. The veterinarian shall also furnish the owner with a tag bearing the certificate number and the year of vaccination. The tag shall be affixed to the vaccinated dog or cat and shall be worn at all times the animal is not on the premises of the owner or otherwise confined. A combination rabies vaccination certificate and city/ county license shall be permitted providing the certificate/License contains at least the above required information.

- (d) Approved rabies vaccine shall be administered to the species, by the route and in the amount recommended by the producer of the vaccine and the latest CARV.
- (e) Nothing herein shall prohibit the acceptance and recognition for purpose of compliance with this section of the administration of an approved rabies vaccine by a veterinarian licensed in another state.

(Ord. No. 86-377, § 2(6-1-3), 8-5-86)

**State law reference**—Rabies vaccination required, NMSA 1978, § 77-1-3.

#### **SEC. 5-37. HUMAN EXPOSURE; ANIMALS WITH SYMPTOMS OF RABIES.**

- (a) 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 the animal control officer or the field office of the health services division.
- (b) 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.
- (c) 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 the enforcement agency at the animal shelter; otherwise, there shall be an assessment of five dollars (\$5.00) against the owner if the enforcement agent must pick up the dog or cat. 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 control officer. 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 two dollar and fifty cents (\$2.50) per day charge for board, and an

impoundment fee of twenty dollars (\$20.00) shall be charged under these circumstances.

- (d) 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, a veterinarian is convinced that the dog or cat is free from such diseases, the dog or cat shall be released.
- (e) Any skunk, bat, ferret, raccoon, coyote, bobcat or other wild animal not born or reared in captivity, with the exception of rodents (Order rodents or rabbits (Order Lagomorpha) 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.
- (f) 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. No. 86-377, §§ 2(6-1-4), 6(6-1-19), 8-5-86)(2)

#### **SEC. 5-38. 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. No. 86-377, § 2(6-1-5), 8-5-86)

#### **SEC. 5-39. 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 confined and isolated at the owner's expense for at least sixty (60) days in a manner directed by the animal 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. 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. No. 86-377, § 2(6-1-6), 8-5-86)

#### **SEC. 5-40. 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. No. 86-377, § 2(6-1-7), 8-5-86)

#### **SECS. 5-41-5-55. RESERVED.**

### **ARTICLE III: VICIOUS ANIMALS**

#### **SEC. 5-56. PROHIBITED EXCEPTIONS**

It is unlawful for any owner to fail to confine a vicious animal except:

- (1) An animal confined within an enclosed automobile, truck or any other vehicle not being used as a public conveyance.
- (2) An animal in shipment on a public conveyance and properly confined in a shipping container conspicuously labeled "Vicious Animal" constructed in such a manner as to prevent the animal from biting or attacking humans or other animals.
- (3) A vicious animal muzzled and on a leash of sufficient strength to keep such animal under control and held by a person capable of controlling the animal.
- (4) Any vicious animal not controlled as required herein shall be destroyed. If the vicious animal has bitten a person or animal within ten (10) days prior to its destruction, the head shall be sent to the laboratory for rabies testing.
- (5) Wolves and wolf-dog hybrids are wild animals which shall be presumed to be vicious if found uncontrolled. If such a wolf or wolf-dog hybrid is captured by the Animal Control Officer or placed under the control of the Animal Control Officer, these rules and procedures will be applied and followed:
  - (a) The Animal Control Officer shall determine if the animal is a wolf or wolf-dog hybrid, will log the time at which the animal is captured, will place that animal in the shelter, and will begin a log of the costs of caring for the animal. If the Animal Control Officer is unsure if the animal is a wolf or wolf-dog hybrid, he may consult with others such as local animal experts, but shall have the final decision in the matter. The Animal Control Officer is not obligated to notify the owner, of known, that the animal is in custody, unless the owner has notified the Animal Control Officer in writing prior to capture, that the animal is missing. The Animal Control Officer shall then issue a citation for violation of this Ordinance to the owner if known, or to an unknown person, which shall be filed in the Municipal Court on the next working day of the Court.
  - (b) The owner of the wolf or wolf-dog hybrid shall have until the end of the next working day of the Municipal Court after the citation is filed to appear before the Court. The owner may then plead guilty to the violation of this ordinance. The owner will then pay a fine of not less nor more than \$500 dollars and shall serve eight (8) hours of community service. The Municipal Court at its discretion may increase the community service time to a maximum of 30 hours, and may direct that this service be performed at the animal shelter. The owner shall pay applicable court costs and shall pay a fee of \$5.00 per day for each day that the wolf or wolf-dog is held by the Animal Control Officer. If the owner is declared indigent and cannot pay the fine, then the owner may work off the fine at a rate of \$5.00 per hour in community service to the City. which shall be 100 hours,
  - (c) When the fine is paid and the community service is completed, the Animal Control Officer shall then release the wolf or wolf-dog hybrid to its owner.
  - (d) If the owner pleads innocent of allowing the wolf or wolf-dog hybrid to become uncontrolled, the Court shall place the matter on its schedule provided the owner pays a fee of \$200 to the City of Aztec for the care of the animal until the hearing and appeal, if any. The owner will pay animal care additional costs above \$200 as they are incurred by the City,

in \$50 increments, according to the log maintained by the Animal Control Officer and reviewed by the Court.

- (e) The burden of proof shall be on the owner to show that he is not responsible for allowing the wolf or wolf-dog hybrid to become uncontrolled. If the owner meets this burden and is found innocent, the Court will direct the Animal Control Officer to return the wolf or wolf-dog hybrid to the owner. If the owner is found guilty of a violation of this ordinance, the provisions of paragraph (b) above shall apply,
- (f) If the person cited as owner of the wolf or wolf-dog hybrid de ownership within 24 hours of being cited, the animal shall be destroyed and the citation dismissed, if the owner claims ownership then later denies ownership. he shall be directed by the Municipal Court to pay the fees described in (d) above, and the animal will be destroyed,
- (g) If any wolf or wolf-dog hybrid is picked up a second time for violation of this ordinance, it shall time destroyed by the Animal Control Officer. If any owner is cited a second time for violating this ordinance, even with a different animal, the Animal Control Officer shall destroy the second animal. If the owner has been found guilty of this ordinance and does not comply with the terms of his sentence, the Court shall notify the Animal Control Officer, who shall then destroy the animal.

#### **SEC. 5.57. IMPOUNDMENT, DESTRUCTION.**

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. (Ord. No. 86-377, j 2(6-1-9), 8-5-86)

#### **SEC. 5.58. DISPOSITION OF ANIMALS ADJUDICATED VICIOUS**

- (a) Once an animal is ruled vicious by a court of law, the animal shall be destroyed by the police department or at the owner's request and expense by a licensed veterinarian.
- (b) During court appeals, the animal will be placed in a veterinary clinic at the owner's expense.

(Ord. No. 86-377, § 2(6-1-10), 8-5-86)

