



1 engineering, architectural, or other professional services are delivered; and private clubs.

2 *Cigar bar* means an establishment that:

3 A. Is a bar, as defined in this Section; and

4 B. Is engaged in the business of selling cigars for consumption by guest on the  
5 premises and generated ten percent (10%) or more of its total annual gross income or at least ten  
6 thousand dollars (\$10,000) in annual sales from the on-site sale of cigars and the rental of on-site  
7 humidors, not including any sales from vending machines, in the calendar year ending December  
8 31, 2005. In any calendar year after December 31, 2005, a qualifying bar that fails to generate at  
9 least ten percent of its total annual gross income or ten thousand dollars (\$10,000) in annual sales  
10 from the on-site sale of cigars and the rental of on-site humidors shall not be defined as a “cigar  
11 bar” and shall not thereafter be included in the definition regardless of sales figures. The business  
12 shall agree to provide adequate information to demonstrate to the city’s satisfaction compliance  
13 with this definition.

14 *Cigarette vending machine* means any self-service device, which, upon insertion of  
15 money or tokens, dispenses cigarettes without the necessity of replenishing the device between  
16 each vending operation.

17 *Employee* means any person who is employed by any employer in the consideration for  
18 direct or indirect monetary wages or profit, and any person who volunteers his or her services for  
19 a nonprofit entity.

20 *Employer* means any person, partnership, corporation, including a municipal corporation  
21 or nonprofit entity, who employs the services of one (1) or more individual persons.

22 *Enclosed area* means all space between a floor and ceiling which is enclosed on all sides  
23 by walls, partitions or windows (exclusive of doors or passage ways), whether partially or fully  
24 extending from the floor towards to ceiling, and whether the walls or partitions are solid or not  
25 and compose a room, vestibule or cubicle.

1            *Group home* means a dwelling unit where full-time shelter, habilitation, care and  
2 supervision is given on a non-institutional basis to neglected, abandoned, physically handicapped,  
3 retarded, mentally disabled and substance or alcohol dependent children or adults on a private,  
4 nonprofit basis licensed by the appropriate governing body.

5            *Health care facility* means an office or institution providing care or treatment of diseases,  
6 whether physical, mental, or emotional, or other medical, physiological, or psychological  
7 conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics,  
8 including weight control clinics, nursing homes, homes for the aging or chronically ill,  
9 laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and  
10 all specialists within these professions. This definition shall include all waiting rooms, hallways,  
11 private rooms, semiprivate rooms, and wards within health care facilities.

12           *Health spa or health club* means any place where therapeutic, rehabilitative or health  
13 maintenance services or equipment, with or without swimming facilities, saunas, steam rooms,  
14 and similar facilities, are available for use by patrons whether membership is required or not.

15           *Hotel or motel* means any building, or portion thereof, containing six (6) or more guest  
16 rooms designed, used or intended to be used by six (6) or more guests.

17           *Nursing care facilities* means any establishment devoted and maintained for the long term  
18 or hospice care of the aged, infirm, chronic or terminally ill.

19           *Place of employment* means any enclosed area under the control of a public or private  
20 employer which employees normally frequent during the course of employment. The area shall  
21 include but not be limited to work areas, lounges and restrooms, conference and classrooms,  
22 employee or public cafeterias, snack stands and coffee shops, and hallways. A private residence is  
23 not a "place of employment" unless it is used as a child care, adult day care or health care facility.

24           *Private club* means an organization, whether incorporated or not, which is the owner,  
25 lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times,

1 which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or  
2 athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental  
3 to its operation. The affairs and management of the organization are conducted by a board of  
4 directors, executive committee, or similar body chosen by the members at an annual meeting. The  
5 organization has established bylaws and/or a constitution to govern its activities. The organization  
6 has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C.  
7 Section 501.

8 *Public places or public spaces* means any enclosed area to which the public is invited or  
9 in which the public is permitted, including but not limited to banks and credit unions, bars,  
10 taverns and pubs, educational facilities, health facilities, commercial laundries, self-serve  
11 laundries, and dry cleaning establishments, public transportation facilities including airports, bus  
12 stations, buses, taxi cabs and paratransit vehicles, reception areas, restaurants, retail food  
13 production and marketing establishments, retail service establishments, retail stores, theaters,  
14 museums and galleries, hospital, medical clinic and laboratory waiting rooms. A private residence  
15 is not a "public place" unless it is used as a child care, adult day care or health care facility.

16 *Restaurant or eating establishment* means any coffee shop, cafeteria, sandwich stand,  
17 luncheonette, short-order cafe, soda fountain, private or public school cafeteria and any other  
18 indoor eating establishment which gives or offers for sale food to the public, guests or employees,  
19 as well as kitchens in which food is prepared on the premises for service elsewhere, including  
20 catering facilities. The term "restaurant" shall include a bar area within the restaurant as well as  
21 all outdoor eating areas.

22 *Retail store* means a store which carries, as its principal business, the selling of tangible  
23 commodities in small quantities directly to consumers.

24 *Retail tobacco store* means a retail store utilized primarily for the sale of tobacco  
25 products and accessories in which the sale of other product is merely incidental.

1           *Service line* means any indoor line at which one (1) or more people are waiting for or  
2 receiving service of any kind, whether or not such service involves the exchange of money.

3           *Smoke or smoking* means inhaling, exhaling, burning, holding or carrying any lighted  
4 cigarette, cigar, cigarillo, pipe, or other lighted tobacco product in any manner or in any form.  
5 "Smoke" also means the gaseous products or particles created by the use of a lighted cigarette,  
6 cigar, cigarillo, pipe or any other kind of smoking equipment.

7           *Sports arena* means enclosed sports pavilions, stadiums, coliseums, gymnasiums, health  
8 spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys or similar  
9 places where members of the general public assemble either to engage in physical exercise,  
10 participate in athletic competition or witness sports events.

11           *Transitional living facility, halfway house or shelter* means a dwelling unit providing  
12 temporary shelter to the homeless, mentally disabled, substance or alcohol dependent individuals  
13 undergoing treatment, or abused or neglected adults. In addition, the facility shall provide  
14 referrals to appropriate agencies for assistance, treatment and follow-up care as required by the  
15 individual.

16           *Truck stop* means any facility located within the city primarily catering to and frequented  
17 by interstate cargo haulers for the purpose of obtaining rest or food, with or without showering  
18 facilities and having sufficient open space for parking large vehicles.

19           **Section 4.       Section 10-6.5 SFCC 1987 (being Ord. #1999-47, §5) is amended to**  
20 **read:**

21           **10-6.5 Smoking Prohibited in Public Places.** Smoking shall be prohibited in all  
22 enclosed public places within the city of Santa Fe including, but not limited to, the following  
23 places:

24           A.       The Santa Fe Municipal Airport, and ticket, boarding and waiting areas of public  
25 transit depots.

- 1           B.       Elevators and stairwells.
- 2           C.       Restrooms, lobbies, reception areas, waiting rooms, hallways and any other  
3 common-use areas in all buildings open to the public.
- 4           D.       Buses, taxicabs and other means of public transit under the authority of the city  
5 of Santa Fe.
- 6           E.       Service lines.
- 7           F.       Retail stores and enclosed shopping malls.
- 8           G.       All areas available to and customarily used by the general public in all businesses  
9 and nonprofit entities patronized by the public, including but not limited to, banks, hotels and  
10 motels, and convention halls.
- 11          H.       Restaurants and other eating establishments.
- 12          I.       Public telephone booths, stalls and phone bank areas.
- 13          J.       Aquariums, galleries, libraries and museums.
- 14          K.       Any facility which is primarily used for exhibiting any motion picture, stage  
15 performance, drama, lecture, musical recital or other similar performance, except performers  
16 when smoking is part of a stage production.
- 17          L.       Enclosed sports arenas including bowling facilities.
- 18          M.       Health care facilities.
- 19          N.       Every room, chamber, place of meeting or public assembly, including school  
20 buildings under the control of any board, council, commission, committee, including joint  
21 committees or agencies of the city or any political subdivision of the state during such time as a  
22 public meeting is in progress, to the extent such place is subject to the jurisdiction of the city.
- 23          O.       Lobbies, party rooms, common rooms, hallways, and other areas used for social  
24 events in apartment houses, condominiums, trailer parks, retirement facilities, nursing care  
25 facilities, group homes, transitional living facilities, shelters, halfway houses and other multiple-

1 unit residential facilities.

2 P. Polling places.

3 Q. Bingo games.

4 R. Schools, academies and institutions of reaming instruction.

5 S. Bars.

6 T. Private clubs when being used for a function to which the general public is  
7 invited.

8 U. Licensed child care and adult day care facilities.

9 V. Outdoor patios of restaurants.

10 Notwithstanding any other provision of this section, any owner, operator, manager or  
11 other person who controls any establishment or facility may declare that entire establishment or  
12 facility as a nonsmoking establishment.

13 **Section 5. Section 10-6.6 SFCC 1987 (being Ord. #1999-47, §6) is amended to**  
14 **read:**

15 **10-6.6 Prohibition of Smoking in Places of Employment.**

16 A. Smoking shall be prohibited in all enclosed facilities within places of  
17 employment without exception. This includes common work areas, auditoriums, classrooms,  
18 conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias,  
19 employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

20 B. This prohibition of smoking shall be communicated to all existing employees  
21 within three (3) weeks of its adoption and to all prospective employees upon their application for  
22 employment.

23 **Section 6. Section 10-6.7 SFCC 1987 (being Ord. #1999-47, §7) is amended to**  
24 **read:**

25 **10-6.7 Distance from Entrances.**

1 (1) Smoking shall occur only at a distance of twenty-five (25') feet in radius  
2 from the entrance to any enclosed area where smoking is prohibited to insure that tobacco  
3 smoke does not enter the area through entrances, windows, ventilation systems or any  
4 other means.

5 (2) The owner, manager or operator of a restaurant or other eating  
6 establishment shall be responsible for ensuring that all outdoor eating areas under the  
7 control of the establishment are designated as nonsmoking areas, and shall post  
8 appropriate signs as necessary clearly indicating where smoking is prohibited under the  
9 provisions of this Ordinance.

10 **Section 7. Section 10-6.8 SFCC 1987 (being Ord. #1999-47, §8) is amended to**  
11 **read:**

12 **10-6.8 Where Smoking Not Regulated.**

13 A. Notwithstanding any other provision of this section to the contrary, the following  
14 areas shall not be subject to smoking restrictions of this section:

15 (1) Private residences, except when used as a child care, adult day care or  
16 health care facility.

17 (2) Hotel and motel rooms rented to guests that are designated as smoking  
18 rooms; provided, however, that not more than twenty percent (20%) of rooms rented to  
19 guests in a hotel or motel may be so designated. All smoking rooms on the same floor  
20 shall be contiguous and smoke from these rooms shall not infiltrate into areas where  
21 smoking is prohibited under the provisions of this Ordinance. The status of rooms as  
22 smoking or nonsmoking may not be changed, except to add additional nonsmoking  
23 rooms.

24 (3) Retail tobacco stores, provided that smoke from these stores does not  
25 infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.

1 (4) Enclosed areas in restaurants, hotel and motel conference or meeting  
2 rooms and public and private assembly rooms while these places are being used for  
3 private functions, provided that smoke from these areas does not infiltrate into areas  
4 where smoking is prohibited under the provisions of this Ordinance.

5 (5) Above-ground open air parking lots and parking structures, truck stops  
6 and rest stops.

7 (6) Private clubs that have no employees, except when being used for a  
8 function to which the general public is invited.

9 (7) Private clubs organized by December 31, 2005, for the sole purpose of  
10 providing a venue for smoking cigars.

11 (8) Outdoor areas of places of employment except those covered by the  
12 provisions of Sections 10-6.5 and 10-6.7 SFCC 1987.

13 (9) Cigar bars, provided that smoke from these places does not infiltrate into  
14 areas where smoking is prohibited under the provisions of this Ordinance, and provided  
15 that no one under the age of 18 is permitted entry at any time. A cigar bar shall display a  
16 sign, at least four inches by six inches in size in at least one conspicuous place, stating:  
17 "Smoking allowed. No one under the age of 18 is permitted."

18 B. Notwithstanding any other provision of this section, any owner, operator,  
19 manager or other person who controls any establishment described in this section may declare  
20 that entire establishment as a nonsmoking establishment.

21 **Section 8. Section 10-6.9 SFCC 1987 (being Ord. #1999-47, §9) is amended to**  
22 **read:**

23 **10-6.9 Posting of Signs.**

24 A. Every public place and place of employment where smoking is totally prohibited  
25 by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking

1 is prohibited.

2 B. All ashtrays and other smoking paraphernalia shall be removed from any area  
3 where smoking is prohibited by this section by the owner, operator, manager or other person  
4 having control of such area.

5 C. It shall be unlawful for any person to serve food or beverages to any person  
6 smoking within an enclosed eating establishment or an enclosed area of an eating establishment  
7 where smoking is prohibited under the provisions of this section.

8 **Section 9. Section 10-6.11 SFCC 1987 (being Ord. #1999-47, §11) is amended to**  
9 **read:**

10 **10-6.11 Enforcement.**

11 A. Enforcement of this section shall be implemented by the city manager, or his or  
12 her designee.

13 B. Notice of the provisions set forth in this section shall be given to all applicants  
14 for a business license in the city of Santa Fe.

15 C. Any citizen who desires to register a complaint under this chapter may initiate  
16 enforcement with the city manager.

17 D. All city of Santa Fe departments shall require, while an establishment is  
18 undergoing otherwise mandated inspections, a "self certification" from the owner, operator,  
19 manager or other person having control of such establishment that all requirements of this section  
20 have been complied with.

21 E. Any owner, operator, manager or employee of any establishment regulated by  
22 this Ordinance shall inform persons violating this section of the appropriate provisions thereof.

23 **Section 10. Section 10-6.17 SFCC 1987 (being Ord. #1999-47, §17) is amended to**  
24 **read:**

25 **10-6.17 Effective Date.** The revisions made to Section 10-6 SFCC 1987 adopted by

1 Ordinance No. 2006-20 shall be effective June 30, 2006 (30 days from the date of its adoption).

2 PASSED, APPROVED, and ADOPTED this 31st day of May, 2006.

3

4 \_\_\_\_\_

5 DAVID COSS, MAYOR

6

7 ATTEST:

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9 \_\_\_\_\_

10 YOLANDA Y. VIGIL, CITY CLERK

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12 APPROVED AS TO FORM:

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14 \_\_\_\_\_

15 FRANK D. KATZ, CITY ATTORNEY

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25 jp/cmassign/environmental/smoking pollution ord