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**CITY OF SANTA FE, NEW MEXICO**  
**ORDINANCE NO. 2007-7**

**AN ORDINANCE**  
**AMENDING CERTAIN SECTIONS OF THE SANTA FE SMOKE FREE ORDINANCE,**  
**ARTICLE 10-6 SFCC 1987 FOR CLARIFICATION OF ISSUES THAT HAVE ARISEN**  
**DURING THE ENFORCEMENT OF THE SANTA FE SMOKE FREE ORDINANCE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Section 10-6.3 SFCC 1987 (being Ord. No. 1999-47, as amended) is amended to amend the following definitions:**

*Bar* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food generates fifteen percent (15%) or less of the total gross annual income of the bar in any calendar year. Bars include, but are not limited to, taverns, nightclubs, cocktail lounges, and cabarets. "Bar" does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

*Cigar bar* means an establishment that:

A. Is a bar, as defined in this section, except that it serves only complementary snacks; and

B. Is engaged in the business of selling cigars for consumption by patrons on the premises and generates ten percent or more of its total annual gross revenue or at least ten thousand dollars (\$10,000) in annual sales from the sale of cigars, not including any sales from vending machines. A cigar bar that fails to generate at least ten percent of its total annual sales from the sale of cigars in the calendar year after December 31, 2006, not including sales from

1 vending machines, shall not be defined as a cigar bar and shall not thereafter be known as such  
2 regardless of sales figures. A cigar bar shall agree to provide adequate information to demonstrate  
3 to the city's satisfaction compliance with this definition.

4 **Section 2. Section 10-6.5 SFCC 1987 (being Ord. No. 1999-47, as amended) is**  
5 **amended to read:**

6 **10-6.5 Smoking Prohibited in Public Places.** Smoking shall be prohibited in all  
7 enclosed public places within the city of Santa Fe including, but not limited to, the following  
8 places:

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

11 B. Elevators and stairwells.

12 C. Restrooms, lobbies, reception areas, waiting rooms, hallways and any other  
13 common-use areas in all buildings open to the public.

14 D. Buses, taxicabs and other means of public transit under the authority of the city  
15 of Santa Fe.

16 E. Service lines.

17 F. Retail stores and enclosed shopping malls.

18 G. All areas available to and customarily used by the general public in all businesses  
19 and nonprofit entities patronized by the public, including but not limited to, banks, hotels and  
20 motels, and convention halls.

21 H. Restaurants and other eating establishments.

22 I. Public telephone booths, stalls and phone bank areas.

23 J. Aquariums, galleries, libraries and museums.

24 K. Any facility which is primarily used for exhibiting any motion picture, stage  
25 performance, drama, lecture, musical recital or other similar performance, except performers

1 when smoking is part of a stage production.

2 L. Enclosed sports arenas including bowling facilities.

3 M. Health care facilities.

4 N. Every room, chamber, place of meeting or public assembly, including school  
5 buildings under the control of any board, council, commission, committee, including joint  
6 committees or agencies of the city or any political subdivision of the state during such time as a  
7 public meeting is in progress, to the extent such place is subject to the jurisdiction of the city.

8 O. Lobbies, party rooms, common rooms, hallways, and other areas used for social  
9 events in apartment houses, condominiums, trailer parks, retirement facilities, nursing care  
10 facilities, group homes, transitional living facilities, shelters, halfway houses and other multiple-  
11 unit residential facilities.

12 P. Polling places.

13 Q. Bingo games.

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

15 S. Bars.

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

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

19 V. Outdoor patios of restaurants and bars.

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

23 **Section 3. Section 10-6.7 SFCC 1987 (being Ord. No. 1999-47, as amended) is**  
24 **amended to read:**

25 **10-6.7 Prohibition of Smoking Near Entrances, Windows and Ventilation Systems.**

1           A.       Smoking is prohibited within twenty-five feet (25') of an opening into any  
2 enclosed area where smoking is prohibited to ensure that persons entering or leaving the building  
3 or facility are not subjected to breathing tobacco smoke and that tobacco smoke does not enter the  
4 area through entrances, windows, ventilation systems or any other means.

5           B.       Smoking is prohibited within twenty-five feet (25') of an outdoor eating or  
6 drinking area of a restaurant or bar. The owner, manager or operator of a restaurant or other  
7 eating establishment shall be responsible for ensuring that all outdoor eating areas under the  
8 control of the establishment are designated as nonsmoking areas, and shall post appropriate signs  
9 as necessary clearly indicating where smoking is prohibited under the provisions of this section.

10           **Section 4.       Section 10-6.11 SFCC 1987 (being Ord. No. 1999-47, as amended) is**  
11 **amended to read:**

12           **10-6.11 Enforcement.**

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

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

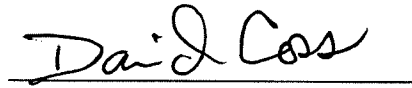
17           C.       Any citizen who desires to register a complaint under this chapter may initiate  
18 enforcement with the city manager.

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

23           E.       Any owner, operator, manager or employee of any establishment regulated by  
24 this section shall inform persons violating this section of the appropriate provisions thereof. If the  
25 owner, operator, manager or employee of such establishment purposely gives incorrect

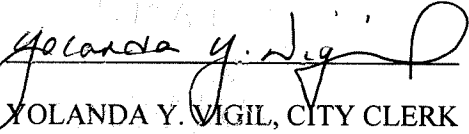
1 information regarding this Ordinance to a patron of the establishment, such person shall be in  
2 violation of this section.

3 PASSED, APPROVED AND ADOPTED this 11<sup>th</sup> day of April, 2007.

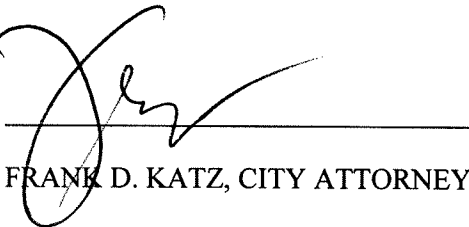
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6 DAVID COSS, MAYOR

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8 ATTEST:

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11 YOLANDA Y. VIGIL, CITY CLERK

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13 APPROVED AS TO FORM:

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16 FRANK D. KATZ, CITY ATTORNEY

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25 JP/N/ords2007/Smoking