

**Chapter 10
TOBACCO**

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ARTICLE I. IN GENERAL

Secs. 10-1 to 10-25. Reserved.

ARTICLE II. SMOKING PROHIBITIONS

DIVISION 1. IN GENERAL

Secs. 10-26 to 10-50. Reserved.

DIVISION 2. MUNICIPAL PROPERTY

Sec. 10-51. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
(Code 2007, 10-51)

Employer

The city.

Place of employment

Any enclosed indoor area under the control of the city which employees normally frequent during the course of employment and which the public normally frequents during its contact with the city, including but not limited to work areas, employees' lounges and conference rooms, public areas and public meeting areas.

Public areas

Any meeting required by law to be an open meeting.

Public place

Any enclosed indoor area in a building owned, leased or used by the city.

Smoke or smoking

The carrying on or holding of a lighted pipe, cigar or cigarette of anykind or any other lighted smoking equipment or the lighting or emitting or exhaling of the smoke of a pipe, cigar or cigarette of any kind.

Smoking permitted area

That portion of a public place in which smoking may be permitted.

Sec. 10-52. Penalties.

Any person violating any provision of this division shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) for each offense.

(Code 2007, 10-52)

Sec. 10-53. Enforcement.

This article shall be enforced by law enforcement officers and/or code enforcement officers.

(Code 2007, 10-53)

Sec. 10-54. Smoking Prohibited Except in Permitted Areas.

It shall be unlawful for any person to smoke at a public place or at a public meeting:

1. At all areas posted with "no smoking" signs.
2. In all areas not specifically authorized for smoking.
3. In any and all areas designated as a non-smoking area.

(Code 2007, 10-54)

Sec. 10-55. Smoking Permitted Areas.

Smoking permitted areas in public places are those areas designated by the city manager or his designee, for the public at large, or for employees, which be fully enclosed offices or rooms occupied exclusively by smokers but visited by nonsmokers.

(Code 2007, 10-55)

Sec. 10-56. Designation of Smoking Permitted Areas.

The city manager or his designee shall designate as a smoking permitted area, by appropriate signs, a contiguous area or areas which shall not exceed fifty (50) percent of a public place.

(Code 2007, 10-56)

Secs. 10-57 to 10-75. Reserved.

ARTICLE III. TOBACCO SALES TO MINORS

Sec. 10-76. Definitions.

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

Distribute

To give, deliver, sell, offer to give, deliver, sell or barter.

Establishments not generally accessible to or frequented by minors

Those establishments from which unaccompanied minors are generally excluded by custom or law including, but not limited to, bars, cocktail lounges and private for members of fraternal or civic organizations.

Photographic identification

Any officially issued card which includes a photograph of the person seeking to purchase tobacco products and is accepted as proof of age for the sale of alcoholic beverages under state law.

Public place

Any area to which the general public is invited or permitted including, but not limited to, all buildings and property owned by the city.

Tobacco product

Any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, smoking tobacco, but excluding all forms of smokeless tobacco.

Vending machine

Any mechanical, electronic or other similar device which automatically dispenses tobacco products usually upon the insertion of a coin, token or slug.

(Code 2007, 10-76)

Sec. 10-77. Distribution to Minors.

1. It shall be unlawful for any person to distribute tobacco products to any individual under eighteen (18) years of age or to sell tobacco products to any individual who is under eighteen (18) years of age. This section does not apply to the parent or guardian of any minor, or adult person into whose custody any court has committed the minor for the time.
2. It shall be an affirmative defense that the seller of a tobacco product to an individual under eighteen (18) years of age in violation of subsection 10-77-1 has requested and examined photographic identification from such person establishing their age as over eighteen (18) years of age prior to the selling of such person a tobacco product. The failure of a seller to request and examine photographic identification from a person under eighteen (18) years old before the sale of a tobacco product to such person shall be a rebuttable presumption of the seller's guilt under this section.

(Code 2007, 10-77)

Sec. 10-78. Distribution Through Vending Machines.

No person shall distribute or permit the distribution of tobacco products through the operation of a vending machine in a public place except at an establishment not generally accessible to or frequented by minors.

(Code 2007, 10-78)

Sec. 10-79. Sealed Packages.

No person shall distribute tobacco products for commercial purposes other than in the sealed package provided by the manufacturer with the required health warning and state tax stamp.

(Code 2007, 10-79)

Sec. 10-80. Penalty.

Violation of any of the sections of this article is a misdemeanor and punishable pursuant to Section 10-53 of the Aztec City Code.

(Code 2007, 10-80)

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