

1 Department of Health

2

3 Adopted Permanent Rules Relating to Clean Indoor Air Act

4

5 Rules as Adopted

6 4620.0050 SCOPE AND PURPOSE.

7 Parts 4620.0050 to ~~4620.1450~~ 4620.1500 must be read in
8 conjunction with the Minnesota Clean Indoor Air Act, Minnesota
9 Statutes, sections 144.411 to 144.417.

10 Nothing in parts 4620.0050 to ~~4620.1450~~ 4620.1500 shall be
11 construed to affect smoking prohibitions imposed by the fire
12 marshal or other laws, ordinances, or regulations.

13 4620.0100 DEFINITIONS.

14 Subpart 1. Scope. For the purpose of parts 4620.0050 to
15 ~~4620.1450~~ 4620.1500, the terms in this part have the meanings
16 given them.

17 Subp. 2. Acceptable nonsmoking area. "Acceptable
18 nonsmoking area" means:

19 A. A contiguous portion of a public place or public
20 meeting including seating arrangements, measuring a minimum of
21 200 square feet, where smoking is prohibited; and

22 B. where at least one of the conditions in subitems
23 (1) to (3) exists.

24 (1) There is a continuous, physical barrier such
25 as a wall, partition, or furnishing, of at least 56 inches (1.42
26 meters) in height separating the smoking-permitted and
27 acceptable nonsmoking areas. The barrier may contain doors or
28 portals for exit and entry.

29 (2) There is a space of at least four feet (1.22
30 meters) in width separating the smoking-permitted and acceptable
31 nonsmoking areas. This space may be either an unoccupied area
32 or a section of seating area acting as a buffer zone in which
33 smoking is not permitted, but which itself is not part of
34 the acceptable nonsmoking area.

35 (3) The ventilation system in the room containing

1 both a smoking-permitted and an acceptable nonsmoking area must
2 provide outdoor air requirements for ventilation of not less
3 than 15 cubic feet per minute per person.

4 Subp. 3. [See repealer.]

5 Subp. 4. Bar. "Bar" means any establishment or portion of
6 an establishment where one can purchase and consume alcoholic
7 beverages. ~~A-bar-excludes~~ Any such establishment or portion of
8 an establishment that is not considered a "bar" for the purposes
9 of parts 4620.0050 to 4620.1500 if it has:

10 A. ~~has~~ table and seating facilities for more than 50
11 people at one time; and

12 B. ~~has~~ licensed food service provided, in
13 consideration of payment, ~~food-service,-other-than-licensure-as~~
14 ~~a~~ excluding licensed limited food service
15 ~~establishment~~ establishments as defined in part 4625.2401,
16 subpart 22~~-that-requires-licensure-under-Minnesota-Statutes,~~
17 ~~chapter-157.~~

18 Subp. 4a. Environmental tobacco smoke. "Environmental
19 tobacco smoke" means:

20 A. ~~smoke from the-burning-end-of~~ a cigarette, pipe,
21 cigar, or other lighted smoking equipment; and

22 B. exhaled smoke from a smoker.

23 Subp. 5. Factory, warehouse, or similar place of work.

24 "Factory, warehouse, or similar place of work" means the indoor
25 area of any facility of an enterprise not usually frequented by
26 the general public used principally to manufacture, assemble, or
27 store goods, products, or merchandise not for the purpose of
28 direct retail sale, and includes those areas incidental but
29 related to the primary operation.

30 Subp. 6. [See repealer.]

31 Subp. 7. [See repealer.]

32 Subp. 8. Office. "Office" means any building, structure,
33 or area used by the general public or serving as a place of work
34 at which the principal activities consist of professional,
35 clerical, or administrative services. An office includes
36 professional offices, offices in financial institutions,

1 business offices, telemarketing offices, and government offices.

2 Subp. 9. **One side of the room.** "One side of the room"
3 means a contiguous portion of a room, including any seating
4 arrangements.

5 Subp. 10. **Other person in charge.** "Other person in charge"
6 means the agent of the proprietor authorized to perform
7 administrative direction to and general supervision of the
8 activities within a public place at any given time.

9 Subp. 11. **Place of work.** "Place of work" means any
10 location at which two or more individuals perform any type of a
11 service for consideration of payment under any type of
12 employment relationship, including but not limited to an
13 employment relationship with or for a private corporation,
14 partnership, individual, or government agency. This term
15 includes any location where two or more individuals gratuitously
16 perform service for which individuals are ordinarily paid.
17 Examples of a place of work include an office, a public
18 conveyance, a factory, a warehouse, or a similar place of work.

19 Subp. 11a. **Private enclosed office.** "Private enclosed
20 office" means a room occupied by one person with floor to
21 ceiling walls and a closeable door.

22 Subp. 12. **Private social function.** "Private social
23 function" means any function for which all the following
24 conditions are met:

25 A. the function is a specific social event for which
26 an entire room or building has been reserved for the purpose of
27 entertainment or pleasure and not for the principal purpose of
28 education, sales, or business;

29 B. the function is limited in attendance to people
30 who have been specifically designated and their guests; and

31 C. seating arrangements for the function, if any, are
32 under control of the sponsor of the function and not of the
33 person otherwise responsible for the public place.

34 [For text of subp 13, see M.R.]

35 Subp. 14. **Public conveyance.** "Public conveyance" means
36 any air, land, or water vehicle used for the transportation of

1 persons whether or not for compensation, including but not
 2 limited to airplanes, trains, buses, boats, and taxis. The term
 3 includes vans and trucks which may be used to transport persons
 4 to, from, and during work or jury duty and those which serve as
 5 a place of work, for example, locomotives, police vehicles, or
 6 fire vehicles. The term does not include privately owned
 7 vehicles when used for private purposes.

8 Subp. 14a. **Public meeting.** "Public meeting" has the
 9 meaning given in Minnesota Statutes, section 144.413.

10 Subp. 14b. **Public place.** "Public place" has the meaning
 11 given in Minnesota Statutes, section 144.413. For purposes of
 12 parts 4620.0050 to ~~4620.1450~~ 4620.1500, a public place includes
 13 all indoor areas used by the general public or serving as a
 14 place of work or jury duty. It does not include a place used
 15 for a private social function or a private enclosed office.

16 Subp. 15. **Responsible person.** "Responsible person" means
 17 the proprietor or other person in charge.

18 Subp. 16. **Restaurant.** "Restaurant" means any building,
 19 structure, or area used as, maintained as, or advertised as, or
 20 held out to the public for food service as defined in part
 21 4625.2401, subpart 15, which requires licensure under Minnesota
 22 Statutes, chapter 157, in consideration of payment other than a
 23 bar as defined in subpart 4.

24 Subp. 16a. **Retail store.** "Retail store" means that
 25 portion of a commercial occupancy used for the transaction of
 26 business or the rendering of a service directly to the public,
 27 including shops, ~~markets~~ retail food stores, laundries or
 28 laundromats, and department stores.

29 Subp. 17. **Room.** "Room" means any indoor area bordered on
 30 all sides by a floor to ceiling wall. The sides must be
 31 continuous and solid except for closeable doors for entry and
 32 exit.

33 4620.0300 SMOKING PROHIBITED AREAS.

34 Smoking is prohibited in all sections of public places or
 35 public meetings except in areas designated as smoking-permitted

1 areas. The responsible person must arrange for an acceptable
2 nonsmoking area. The size and location of any smoking-permitted
3 area must minimize environmental tobacco smoke in any adjacent
4 acceptable nonsmoking area in accordance with procedures
5 specified in parts 4620.0050 to ~~4620.1450~~ 4620.1500.

6 4620.0400 SMOKING-PERMITTED AREA.

7 Subpart 1. **Smoking permitted area in one room.** If smoking
8 is to be permitted in an area of a public place or public
9 meeting, the responsible person must designate the area as
10 "smoking-permitted." One and only one smoking-permitted area
11 may be designated per room. However, rooms containing at least
12 20,000 square feet (1,858 square meters) in total floor space
13 may designate no more than one smoking-permitted area per 20,000
14 square feet, or fraction thereof, and shall otherwise comply
15 with parts 4620.0050 to ~~4620.1450~~ 4620.1500.

16 Subp. 2. **Smoking-permitted area in two or more rooms.** In
17 a public place which contains two or more rooms used for the
18 same activity, the responsible person may designate one entire
19 room as smoking-permitted as long as at least one other
20 comparable room has been designated as an acceptable nonsmoking
21 area.

22 Subp. 3. **Acceptable nonsmoking area within a room.** In the
23 case of a public place consisting of a single room in which a
24 smoking-permitted area is designated, the responsible person is
25 responsible for reserving and clearly designating an acceptable
26 nonsmoking area on one side of the room. The responsible person
27 must make reasonable efforts to prevent smoking in nonsmoking
28 areas.

29 Subp. 4. **Size of the area.** The size of the designated
30 smoking-permitted area must not be more than proportionate to
31 the preference of users of that location for a smoking-permitted
32 area, as can be demonstrated by a responsible person. The
33 proportional preference of users of a smoking-permitted area in
34 that location may be demonstrated by the responsible person by
35 evidence of any of the following:

1 A. the percent of users of the location who express a
2 preference for a smoking-permitted area when the responsible
3 person asks all users for their preference; or

4 B. the percent of users of the location who request
5 or select a smoking-permitted area when the responsible person
6 does not ask all users for their preference; or

7 C. the percent of users who are determined by the
8 proprietor to prefer a smoking-permitted area by an alternate
9 method which reasonably indicates the user's preference.

10 Subp. 5. **Private enclosed office.** Smoking is permitted in
11 a private enclosed office if the door is kept closed while
12 smoking occurs.

13 4620.0500 SIGNS.

14 Subpart 1. **Posting.** To advise persons of the existence of
15 acceptable nonsmoking and smoking-permitted areas, "No Smoking"
16 and "Smoking Permitted" signs must be posted in the places
17 specified in this part. In addition, the statement "Smoking is
18 prohibited except in designated areas," or a similar statement
19 must be conspicuously posted on or immediately inside of all
20 outside entrances to any public place.

21 Subp. 2. **Statement on sign.** All signs used to identify a
22 location where the responsible person prohibits smoking in an
23 entire public place or public meeting must use the statement,
24 "No smoking is permitted in this entire establishment," or a
25 similar statement. The sign must be conspicuously posted either
26 on or immediately inside of all outside entrances to the public
27 place. All signs used to identify a smoking-permitted area must
28 use the words "smoking permitted" or use the international
29 smoking symbol or both. Signs which are used to identify an
30 acceptable nonsmoking area must use the words "no smoking" or
31 the international no-smoking symbol or both.

32 Subp. 3. **Placement of sign.** All signs used to identify
33 smoking-permitted and acceptable nonsmoking areas must be placed
34 at a height and location easily seen by a person in the
35 establishment and must not be obscured in any way. In areas

1 where signs have to be read from a distance, the following are
2 minimum lettering and symbol sizes which must be used:

3	4	5	6
Furthest distance	Height of	Diameter of outer	
from which sign	lettering	circle on symbol	
is to be read:			
7 Up to: 75 feet	1.5 inches	4 inches	
8 150 feet	4 inches	6 inches	
9 200 feet	6 inches	10 inches	
10 350 feet	8 inches	15 inches	
11 500 feet	12 inches	18 inches	
12			

13 The boundary between an acceptable nonsmoking area and
14 smoking-permitted area must be clearly designated so a person
15 can differentiate between the two areas.

16 Subp. 4. **Size of lettering.** Signs used on tables, seats,
17 or entrances to designate acceptable nonsmoking and
18 smoking-permitted areas must use printed letters of not less
19 than 0.5 inches (1.3 centimeters) in height. Whenever either of
20 the international symbols is used, the diameter of the outer
21 circle must not be less than three inches. The size of
22 lettering on signs reading "Smoking Permitted" must not exceed
23 the size of lettering on signs reading "No Smoking" in the same
24 public place.

25 Subp. 5. **Posting in a bar.** All signs used to identify a
26 bar that has been designated as a smoking area in its entirety
27 must use the statement, "This establishment is a smoking area in
28 its entirety," or a similar statement. ~~All signs used to~~
29 ~~identify a bar with~~ In a bar that has food service as specified
30 in part 4620.0100, subpart 4, and that allows smoking in its
31 entirety when food service is not available, all signs used to
32 identify smoking-permitted areas must have a sign stating state,
33 "This establishment is a smoking area in its entirety except
34 when food service is available," or a similar statement. The
35 sign must be conspicuously posted either on or immediately
36 inside of all outside entrances to the establishment.

37 Subp. 6. **Posting in a restaurant.** A restaurant which has
38 controlled seating (an employee directs patrons to seating or
39 waiting areas) must ask each person whether that person prefers
40 a smoking-permitted or a nonsmoking area before directing that

1 person to a seat in the appropriate area. At least one sign
2 advising the public of this procedure must be conspicuously
3 posted on or immediately inside of all outside entrances to the
4 establishment. Similarly, a restaurant or other public place
5 which takes advance reservations must ask the person's
6 preference for a smoking-permitted or nonsmoking area at the
7 time the reservation is made. A restaurant or other public
8 place which uses controlled seating as defined above is exempt
9 from the sign requirements contained in subparts 3 and 4.

10 4620.0600 PERMISSIBLE ASH TRAYS.

11 Portable ash trays are banned in all acceptable nonsmoking
12 areas. Only ash stands and permanent ash trays may be used at
13 or near the entrance to an acceptable nonsmoking area. Ash
14 stands and permanent ash trays must be conspicuously labeled
15 with the following message or a similar statement and placed on
16 or near the ash stand:

17 SMOKING IS PROHIBITED

18 PLEASE EXTINGUISH ALL SMOKING MATERIALS IMMEDIATELY

19 4620.0700 COMPLIANCE.

20 The responsible person must comply with parts 4620.0050 to
21 ~~4620.1450~~ 4620.1500. If the provisions of the rules governing
22 specific affected places conflict with or are inconsistent with
23 a general provision of parts 4620.0050 to 4620.0600, the
24 specific portion of parts 4620.0700 to ~~4620.1450~~ 4620.1500 shall
25 prevail over the general. The public places specified in this
26 rule must comply with the provisions in parts 4620.0700
27 to ~~4620.1450~~ 4620.1500 according to the functional activities
28 taking place in a public area and not according to the nature of
29 a controlling establishment. For example, different rules may
30 apply to component areas of a building according to the actual
31 functional activity of the area, such as a restaurant, office,
32 or retail space.

33 4620.0750 EMPLOYEE LUNCHROOM OR LOUNGE.

34 ~~An-employee~~ A lunchroom or lounge must be designated as

1 specified in this part.

2 A. ~~An-employer~~ The responsible person must designate
3 an acceptable nonsmoking area in the ~~employee~~ lunchroom or
4 lounge that meets ~~employee~~ demand. Amenities, such as
5 refrigerators or microwaves, must be located in the nonsmoking
6 area. The space occupied by these amenities must not be
7 calculated as part of the square footage or percentage of area
8 allocated to the nonsmoking seating area.

9 B. The demand for a nonsmoking area must be
10 determined as specified in part 4620.0400, subpart 4, or
11 the ~~employer~~ responsible person may designate at least 70
12 percent of the lunchroom or lounge as a nonsmoking area.

13 C. The ~~employer~~ responsible person must also provide
14 a method of separation, as described in part 4620.0100, subpart
15 2, item B, between the nonsmoking and smoking-permitted areas.

16 D. If there are two or more ~~employee~~ lunchrooms or
17 lounges, one may be designated as smoking-permitted in its
18 entirety as long as at least one other comparable ~~employee~~
19 lunchroom or lounge is designated as nonsmoking in its entirety.

20 E. If there is only one ~~employee~~ lunchroom or lounge
21 and it measures less than 200 square feet, the ~~employer~~
22 responsible person may alternate nonsmoking and
23 smoking-permitted break times. Nonsmoking employees must not be
24 required to take breaks during the time the lunchroom or lounge
25 is designated as smoking-permitted in its entirety.

26 4620.0950 OFFICE BUILDINGS.

27 Smoking is prohibited in all ~~offices~~ office spaces, except
28 in the following locations:

29 A. in a private enclosed office if the door is kept
30 closed while smoking occurs; ~~or~~

31 B. in a designated smoking-permitted area of ~~an~~
32 ~~employee~~ a lunchroom or lounge as specified in part 4620.0750;
33 or

34 C. where a designated smoking-permitted area of a
35 lunchroom or lounge is not available with the office space

1 controlled by the responsible person, then one smoking-permitted
2 area per 20,000 square feet, or fraction thereof, may be
3 designated by the responsible person. One of the separation
4 methods specified in part 4620.0100, subpart 2, item B, must be
5 provided between the nonsmoking and smoking-permitted areas.

6 4620.0975 FACTORIES, WAREHOUSES, OR SIMILAR PLACES OF WORK.

7 Subpart 1. Conditions. To avoid the restriction specified
8 in subpart 2, in a factory, warehouse, or similar place of work,
9 employees must be:

10 A. provided outdoor air requirements for ventilation
11 of not less than 15 cubic feet per minute per person during
12 occupied hours; and

13 B. stationed at least four feet apart.

14 Documentation of the ventilation rate in item A must be
15 verified by an individual certified by the National
16 Environmental Balancing Bureau or the Associated Air Balance
17 Council. The commissioner will accept a ventilation rate
18 specified in item A which has been verified within the previous
19 12 months provided changes affecting the operation of the
20 ventilation system have not been made.

21 Subp. 2. Restriction. If the conditions specified in
22 subpart 1, items A and B, cannot be met, then smoking must be
23 restricted in a factory, warehouse, or similar place of work to
24 the following locations:

25 A. a private enclosed office if the door is kept
26 closed while smoking occurs; or

27 B. the designated smoking-permitted area of an
28 employee a lunchroom or lounge as specified in part 4620.0750;
29 or

30 C. where a designated smoking-permitted area of a
31 lunchroom or lounge is not available with the factory or
32 warehouse space controlled by the responsible person, then one
33 smoking-permitted area per 20,000 square feet, or fraction
34 thereof, may be designated by the responsible person. One of
35 the separation methods specified in part 4620.0100, subpart 2,

1 item B, must be provided between the nonsmoking and
2 smoking-permitted areas.

3 4620.1000 RESTAURANTS.

4 During its hours of operation, a restaurant shall be in
5 compliance with parts 4620.0500 to ~~4620.1450~~ 4620.1500 if 30
6 percent of the seats in the eating area are designated as
7 "Smoking Prohibited."

8 When a facility contains both a restaurant and a bar and
9 the restaurant and bar are in separate rooms, and both the
10 restaurant and bar have food service available to patrons, then:

11 A. the responsible person must calculate the total
12 seating for both the restaurant and bar;

13 B. the responsible person must determine 30 percent
14 of the total seating in item A to be designated as nonsmoking
15 seating; and

16 C. the responsible person may locate the required 30
17 percent nonsmoking seating entirely in the restaurant, entirely
18 in the bar, or allocate part of the 30 percent in the bar and
19 part of the 30 percent in the restaurant.

20 4620.1025 BARS.

21 During the hours of operation when food service is
22 available to patrons that requires licensure as a restaurant
23 under Minnesota Statutes, chapter 157, and as a food and
24 beverage service establishment under part 4625.2401, subpart 15,
25 a bar must provide the same percent or greater of nonsmoking
26 seating as required for restaurants in part 4620.1000. During
27 the hours of operation when a bar does not make such food
28 service available, the bar may be designated as
29 smoking-permitted in its entirety.

30 4620.1200 HEALTH CARE FACILITIES.

31 Subpart 1. **Chemical dependency and mental health**
32 **patients.** Smoking by a patient in a licensed chemical
33 dependency treatment program or licensed mental health program
34 located in a hospital, health care clinic, doctor's office, or

1 other health care-related facility is only permitted in a
2 separated room ventilated at a rate of 60 cubic feet per minute
3 per person under the conditions specified in Minnesota Statutes,
4 section 144.414, subdivision 3, paragraph (b).

5 Subp. 2. **Smoking in a nursing home, boarding care**
6 **facility.** Smoking in a nursing home, boarding care facility, or
7 other licensed residential facility is permitted in a patient or
8 resident room if the procedures in item A or B are followed.

9 A. The responsible person must ask all prospective
10 patients or residents or a person authorized to represent the
11 patient or resident whether a smoking-permitted or an acceptable
12 nonsmoking area is preferred. The responsible person must
13 assign rooms according to this preference when space is
14 available. When space is not available in a nonsmoking room and
15 a person is admitted to a room originally designated for
16 smoking, smoking must be prohibited in that room unless
17 expressly permitted by the nonsmoker.

18 B. If the responsible person does not assign patient
19 or resident rooms according to the smoking preference of the
20 patient or resident, smoking must be prohibited in all such
21 rooms except rooms occupied exclusively by persons who smoke or
22 persons who express permission for smoking.

23 Visitors and staff must be prohibited from smoking in
24 patient or resident rooms unless the occupants expressly permit.

25 Acceptable nonsmoking areas and smoking-permitted areas in
26 commonly used space of the facilities in this subpart must be
27 designated according to part 4620.0400.

28 4620.1400 COMMON AREAS.

29 Subpart 1. **General.** Common areas are areas used by both
30 nonsmokers and smokers such as entry or exit areas, lobby areas,
31 ticket areas, registration areas, common traffic areas, common
32 areas of rental apartment buildings, or similar sections of
33 public places. These common areas must not be designated in
34 their entirety as a smoking-permitted area if nonsmokers would
35 be required to use the area to participate in activities for

1 which the public space is intended. Parts 4620.0050
 2 to ~~4620.1450~~ 4620.1500 shall not be construed to prevent
 3 designation of a smoking-permitted area in a portion of the
 4 establishment which nonsmokers must briefly cross to reach the
 5 intended activity.

6 Subp. 2. **Elevators.** Elevators must be designated smoking
 7 prohibited in their entirety.

8 Subp. 3. Restrooms. Smoking is prohibited in restrooms of
 9 office buildings, factories, warehouses, and similar places of
 10 work.

11 4620.1425 RETAIL STORES.

12 Smoking is prohibited in all customer areas of retail
 13 stores, except for designated smoking areas. To allow smoking
 14 in a smoking-permitted area, the same goods and services must be
 15 available in a nonsmoking area. Smoking-permitted areas must be
 16 designated according to part 4620.0400. This prohibition
 17 ~~includes-customer-service-and-check-out-areas.~~

18 Smoking-permitted areas for employees may be designated
 19 according to parts 4620.0400 and 4620.0750. However, designated
 20 smoking-permitted areas for employees must be separate from all
 21 customer areas. When a restaurant is located within a retail
 22 store, that space licensed as a restaurant must comply with the
 23 provisions of part 4620.1000.

24 ~~RENUMBERING-INSTRUCTION:--The-term-"4620.1500"-in-Minnesota~~
 25 ~~Rules,-parts-4620.1450-and-4717.7000,-shall-be-changed-to~~
 26 ~~"4620.1450."~~

27
 28 EFFECTIVE DATE. Minnesota Rules, parts 4620.0500, subpart 5;
 29 4620.0750; 4620.0950; 4620.0975; and 4620.1025, are effective
 30 July 1, 1995.

31 REPEALER. Minnesota Rules, parts 4620.0100, subparts 3, 6, and
 32 7; 4620.0200; 4620.0800; and 4620.0900, ~~and-4620.1500~~, are
 33 repealed.