

**CHAPTER 4620**  
**DEPARTMENT OF HEALTH**  
**CLEAN INDOOR AIR**

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**4620.0050 SCOPE AND PURPOSE.**

Parts 4620 0050 to 4620 1450 must be read in conjunction with the Minnesota Clean Indoor Air Act, Minnesota Statutes, sections 144 411 to 144 417

Nothing in parts 4620 0050 to 4620.1450 shall be construed to affect smoking prohibitions imposed by the fire marshal or other laws, ordinances, or regulations or to affect the right of building owners or operators to designate their premises as smoke-free.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

**4620.0100 DEFINITIONS.**

Subpart 1 **Scope.** For the purpose of parts 4620 0050 to 4620 1450, the terms in this part have the meanings given them

Subp 2 **Acceptable nonsmoking area.** “Acceptable nonsmoking area” means

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

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

(1) There is a continuous, physical barrier such as a wall, partition, or furnishing, of at least 56 inches (1 42 meters) in height separating the smoking-permitted and acceptable nonsmoking areas The barrier may contain doors or portals for exit and entry

(2) There is a space of at least four feet (1 22 meters) in width separating the smoking-permitted and acceptable nonsmoking areas This space may be either an unoccupied area or a section of seating area acting as a buffer zone in which smoking is not permitted, but which itself is not part of the acceptable nonsmoking area.

(3) The ventilation system in the room containing both a smoking-permitted and an acceptable nonsmoking area must provide outdoor air requirements for ventilation of not less than 15 cubic feet per minute per person

Subp 4. **Bar.** “Bar” means an establishment or portion of an establishment where one can purchase and consume alcoholic beverages. Any such establishment or portion of an establishment is not considered a “bar” for the purposes of parts 4620.0050 to 4620 1450 if it has

A table and seating facilities for more than 50 people at one time, and

B. licensed food service provided, in consideration of payment, excluding licensed limited food service establishments under Minnesota Statutes, section 157 16, subdivision 3, paragraph (d), clause (1), item (i) or (ii)

*[For text of subps 4a and 5, see MR ]*

Subp 8 **Office.** “Office” means a building, structure, or area used by the general public or serving as a place of work at which the principal activities consist of

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professional, clerical, or administrative services. An office includes, but is not limited to, professional offices, offices in financial institutions, business offices, telemarketing offices, and government offices.

*[For text of subps 9 to 14a, see MR]*

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

*[For text of subp 15, see MR]*

Subp. 16 **Restaurant.** "Restaurant" has the meaning given in Minnesota Statutes, section 157.15, subdivision 12, when food service is provided in consideration of payment other than a bar as defined in subpart 4.

*[For text of subps 16a and 17, see MR]*

**Statutory Authority:** *MS s 144.417*

**History:** *27 SR 407*

## 4620.0300 SMOKING PROHIBITED AREAS.

Smoking is prohibited in all sections of public places or public meetings except in areas designated as smoking-permitted areas. The responsible person must arrange for an acceptable nonsmoking area. The size and location of a smoking-permitted area must minimize environmental tobacco smoke in any adjacent acceptable nonsmoking area according to parts 4620.0050 to 4620.1450.

**Statutory Authority:** *MS s 144.417*

**History:** *27 SR 407*

## 4620.0400 SMOKING-PERMITTED AREA.

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

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

*[For text of subp 3, see MR]*

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

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

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

C. the percent of users who are determined by the responsible person to prefer a smoking-permitted area by an alternate method that reasonably indicates the users' preference.

[For text of subp 5, see MR]

**Statutory Authority:** MS s 144 417

**History:** 27 SR 407

**4620.0500 SIGNS.**

Subpart 1. **Posting.** To advise persons of the existence of acceptable nonsmoking and smoking-permitted areas, “No Smoking” and “Smoking Permitted” signs must be posted according to this part. In addition, the statement “Smoking is prohibited except in designated areas” or a similar statement must be conspicuously posted on or immediately inside of all outside entrances to a public place

Subp 2. **Statement on sign.** All signs used to identify a location where the responsible person prohibits smoking in an entire public place or public meeting must use the statement, “No smoking is permitted in this entire establishment” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the public place. All signs used to identify a smoking-permitted area must use the words “smoking permitted” or the international smoking symbol, or both. Signs that are used to identify an acceptable nonsmoking area must use the words “no smoking” or the international no-smoking symbol, or both

Subp 3. **Placement of sign.** All signs used to identify smoking-permitted and acceptable nonsmoking areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:

	Farthest distance from which sign is to be read	Height of lettering	Diameter of outer circle on symbol
Up to	75 feet	1 5 mches	4 mches
	150 feet	4 inches	6 inches
	200 feet	6 inches	10 inches
	350 feet	8 inches	15 inches
	500 feet	12 inches	18 inches

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

[For text of subp 4, see MR]

Subp 5 **Posting in a bar.** All signs used to identify a bar that has been designated as a smoking area in its entirety must use the statement “This establishment is a smoking area in its entirety” or a similar statement. In a bar that has food service as specified in part 4620 0100, subpart 4, and that allows smoking in its entirety when food service is not available, all signs used to identify smoking-permitted areas must state “This establishment is a smoking area in its entirety except when food service is available” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the establishment

Subp. 6 **Posting in a restaurant or public place with controlled seating.** A restaurant or other public place that has controlled seating (an employee directs patrons to seating or waiting areas) must ask each person whether that person prefers a smoking-permitted or a nonsmoking area before directing that person to a seat in the appropriate area. At least one sign advising the public of this procedure must be conspicuously posted on or immediately inside of all outside entrances to the establishment. Similarly, a restaurant or other public place that takes advance reservations must ask the person’s preference for a smoking-permitted or nonsmoking area at the time the reservation is made. A restaurant or other public place that uses controlled seating as defined above is exempt from the sign requirements contained in subparts 3 and 4.

**Statutory Authority:** MS s 144.417

**History:** 27 SR 407

4620.0700 [Repealed, 27 SR 407]

**4620.0750 LUNCHROOM OR LOUNGE.**

A lunchroom or lounge must be designated as specified in this part.

A. The responsible person must designate an acceptable nonsmoking area in the lunchroom or lounge that meets demand. Amenities, such as refrigerators or microwave ovens, must be located in the nonsmoking area. The space occupied by these amenities must not be calculated as part of the square footage or percentage of area allocated to the nonsmoking seating area.

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

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

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

E. If there is only one lunchroom or lounge and it measures less than 200 square feet, the responsible person may alternate nonsmoking and smoking-permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as smoking-permitted in its entirety.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

**4620.0950 OFFICES.**

Subpart 1 **General.** Smoking is prohibited in all offices, except in the following locations:

A. in a private enclosed office if the door is kept closed while smoking occurs,

B. in a designated smoking-permitted area of a lunchroom or lounge as specified in part 4620.0750, or

C. where a designated smoking-permitted area of a lunchroom or lounge is not available with the office space controlled by the responsible person, then one smoking-permitted area per 20,000 square feet, or fraction thereof, may be designated by the responsible person. One of the separation methods specified in part 4620.0100, subpart 2, item B, must be provided between the nonsmoking and smoking-permitted areas.

Subp 2 **Expiration date.** This part expires on September 23, 2003.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

**4620.0955 OFFICES; FACTORIES, WAREHOUSES, OR SIMILAR PLACES OF WORK.**

Subpart 1 **General.** Smoking is prohibited in all offices and factories, warehouses, or similar places of work, except:

A. in a private enclosed office if the door is kept closed while smoking occurs and it meets the requirements of subpart 2, items B to E,

B. in a designated smoking-permitted area of a lunchroom or lounge that complies with subitems (1) to (4) and meets the requirements of subpart 2, items B to E.

(1) the responsible person must designate a nonsmoking area in the lunchroom or lounge that meets demand. Amenities, such as refrigerators or microwave ovens, must be located in the nonsmoking area. The space occupied by the

amenities must not be calculated as part of the percentage of area allocated to the nonsmoking seating area,

(2) the responsible person must determine the demand for a nonsmoking area according to part 4620.0400, subpart 4, or may designate at least 70 percent of the lunchroom or lounge as a nonsmoking area,

(3) if there are two or more lunchrooms or lounges, one may be designated as smoking-permitted in its entirety as long as at least one other comparable lunchroom or lounge is designated as nonsmoking in its entirety, and

(4) if there is only one lunchroom or lounge and it measures less than 200 square feet, the responsible person may alternate nonsmoking and smoking-permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as smoking-permitted in its entirety, or

C when a lunchroom or lounge is not available with the space controlled by the responsible person, the responsible person may designate one smoking-permitted area per 20,000 square feet, or fraction thereof. If smoking-permitted areas are designated, the responsible person must comply with subpart 2, items B to E.

**Subp 2 Smoking-permitted area requirements.**

A. A smoking-permitted area in an office or a factory, warehouse, or similar place of work must be designed and operated according to items B to E. Documentation of items B to E must be made available to the commissioner upon request.

B. The area must be maintained at a negative pressure with respect to adjacent or connected nonsmoking areas, as verified by a professional engineer licensed in the state or an individual certified by the National Environmental Balancing Bureau or the American Air Balance Council. The commissioner shall accept documentation of a negative pressure relationship that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.

C. Air from a smoking-permitted area must not be recirculated into a nonsmoking area.

D. Air from the smoking-permitted area must be exhausted directly to the outdoors.

E. The area must be equipped with one of the following:

(1) a continuous physical barrier with closed doors, except to permit necessary ingress and egress, that separates the smoking-permitted area from adjacent or connected nonsmoking areas, or

(2) an air distribution system that is designed and operated to ensure a unidirectional airflow from adjacent or connected nonsmoking areas into the smoking-permitted area, as verified by an individual certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. The commissioner shall accept documentation of unidirectional airflow that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.

**Subp 3 Effective date.** This part is effective September 23, 2003.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

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

*[For text of subs 1 and 2, see MR]*

**Subp 3 Expiration date.** This part expires on September 23, 2003.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

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### 4620.1200 HEALTH CARE FACILITIES.

*[For text of subpart 1, see MR ]*

Subp 2 **Smoking in a nursing home, boarding care facility.** Smoking-permitted areas in nursing homes are regulated according to part 4658 4520. Smoking-permitted areas in boarding care facilities are regulated according to part 4660 9940, subpart 2. If a smoking-permitted area is provided, a comparable nonsmoking area must also be provided. Smoking in a nursing home, boarding care facility, or other licensed residential facility is permitted in a patient or resident room if the procedures in item A or B are followed.

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

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

Visitors and staff must be prohibited from smoking in patient or resident rooms.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

### 4620.1440 COMPLIANCE.

The responsible person must comply with parts 4620.0050 to 4620 1450. If a rule governing specific affected places conflicts with or is inconsistent with a general provision of parts 4620 0050 to 4620 0600, the specific provision of parts 4620 0750 to 4620 1450 prevails over the general provision. A public place specified in parts 4620.0050 to 4620 1450 must comply with parts 4620 0750 to 4620 1450 according to the activities that take place in the public area. Different rules may apply to individual areas within a building according to the actual activities conducted within each area.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*

### 4620.1450 VARIANCE TO RULES RELATING TO CLEAN INDOOR AIR.

The commissioner shall grant variances to parts 4620 0100 to 4620 1450, except part 4620 0300, only according to the procedures and criteria specified in parts 4717 7000 to 4717.7050.

**Statutory Authority:** *MS s 144 417*

**History:** *27 SR 407*