

EFFECTIVE  
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NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

178 NAC 7

TITLE 178

ENVIRONMENTAL HEALTH

CHAPTER 7

CLEAN INDOOR AIR

001. SCOPE AND AUTHORITY. These regulations implement Nebraska Revised Statute (Neb. Rev. Stat.) § 71-1911 and the Nebraska Clean Indoor Air Act, Neb. Rev. Stat. §§ 71-5716 to 71-5734.

002. DEFINITIONS. Definition set in the Nebraska Clean Indoor Air Act and the following apply to this chapter.

002.01 CHILD CARE PROGRAM. A child care program has the meaning found in Neb. Rev. Stat. § 71-1910 and which is licensed under Neb. Rev. Stat. § 71-1911.

002.02 CHILD CARE PROVIDER. A child care provider is a person who is licensed to operate a child care program.

002.03 COMPLETE APPLICATION. An application provided by the Department which contains all of the requested information, with attestation to its truth and completeness, signatures of the applicant(s), submitted with all required documentation.

002.04 SMOKING CESSATION PROGRAM. A program designed to help people stop smoking tobacco products is a smoking cessation program.

002.05 WALL. A vertical partition with a height and length greater than its thickness; used to divide, define, or enclose an area is a wall. For the purposes of these regulations, it can be of any shape or material which impedes airflow.

003. PUBLIC PLACES AND PUBLIC MEETINGS. The following apply to persons providing public places and public meetings.

003.01 MEASUREMENT. For purposes of determining compliance with the statutes and this chapter, areas will be assessed according to the requirements of § 71-5730 and by measurements of the wall area to determine whether less than 20% is permanently open to the outdoors as follows:

- (A) The first eight feet of height and the entire length of each wall are measured to obtain total wall square footage. If a proprietor chooses to install security devices, such as bars, fencing, and wood slats, they must be permanent fixtures. Any security devices located within permanently open areas must be included in total wall measurements; and
- (B) A calculation of 20% of total wall square footage to obtain total open area square footage is done to determine whether less than 20% of permanently open space is present.

003.02 RESPONSIBILITIES OF PROPRIETOR OR OTHER PERSON IN CHARGE OF A PUBLIC PLACE. To ensure compliance, a proprietor must take measures as required by Neb. Rev. Stat. § 71-5731.

004. SMOKING CESSATION PROGRAMS. To qualify, a smoking cessation program a program must:

- (A) Consist of a minimum of three contacts between participant and a qualified counselor, equaling two hours of counseling time;
- (B) Be able to track the progress of participants to determine required counseling time is met; and
- (C) Issue a certificate of completion to participants.

004.01 APPROVAL. To have a program approved by the Department as a smoking cessation program, the program facilitator must submit a complete application to the Department and a copy of the certificate issued to participants upon completion.

005. CHILD CARE PROGRAMS. Child care programs that are not located in the residence of the child care provider must be located in a smoke free environment and meet the requirements of this chapter. A child care provider who operates a child care program in his or her residence must inform parents, guardian(s), or other individuals responsible of all enrolled children if any household member, including the provider, smokes in the home. This information must be provided to parents, guardian(s), or other individuals responsible before accepting a child into care.

006. WAIVER OF THE LAW. Provisions of the law may be waived under § 71-5732 (3) and this chapter.

006.01 APPLICANT. An applicant for a waiver must demonstrate good cause for a waiver and demonstrate that the waiver will not significantly affect the health and safety of the public and employees.

006.02 APPLICATION. To apply for a waiver of provisions of the Act, or these regulations, the proprietor or other person in charge must submit a complete application to the Department.

006.03 WAIVERS ARE TEMPORARY. At the time of the waiver's expiration, if an applicant desires a continued waiver, the applicant must reapply for another waiver to ensure the continued protection of the public, including employees', health and safety.

006.04 GRIEVANCES. Any person aggrieved by the Department's decision regarding a waiver may make a written request for a hearing pursuant to 184 Nebraska Administrative Code 1.