DCF 251.06 Physical plant and equipment.

(1) BUILDING.

(a) The building in which a center is located shall comply with applicable state and local building codes. The licensee shall maintain a report of inspection of the building, which specifies that the building meets the applicable Wisconsin commercial building codes for use as a group child care center.

Note: Inspections can be obtained from a commercial building inspector certified by the Department of Safety and Professional Services in accordance with ch. SPS 305, “Licenses, Certifications, and Registration,” or a Wisconsin architect registered in accordance with chapter A-E 3, Architect Registration, or a Wisconsin engineer registered in accordance with chapter A-E 4, Professional Engineer Registration.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits.

A license may not be issued until the building is in compliance with all applicable commercial building codes as evidenced by a copy of the Building Inspection Report form or a letter from a registered architect or engineer or from a commercial building inspector certified by the Department of Safety and Professional Services (formerly the Department of Commerce). The Building Inspection Report or letter must indicate that all applicable commercial building codes have been met. If any codes listed are designated “not met,” all necessary modifications must be completed before the license is issued. The correct Occupancy category (usually Group E or Group I-4) must be identified on the inspection report. Arrangements for inspections and reports are the responsibility of the applicant / licensee.

The applicant should contact the Wisconsin Department of Safety and Professional Services (DSPS) to determine if plan submittal is necessary prior to requesting an inspection or engaging in any building renovations. Contact the DSPS Plan Review office at http://dsps.wi.gov/Plan-Review or email questions to DspsSbPlanSchedule@wi.gov.

The person requesting an inspection should ask for assistance in determining whether any modifications are necessary to ensure that the building meets the applicable commercial building codes. Group child care centers will typically need to meet the “I-4” building codes. Under certain circumstances, a building may meet the “E” codes.

A building inspection is not required for 4 year olds served in a school that also has a 4 year old kindergarten.

USE OF A BUILDING THAT WAS PREVIOUSLY LICENSED AS A CHILD CARE CENTER: If a building was previously licensed as a child care center (and not renovated or used for another purpose in between occupancies by a licensed child care center) a copy of the most recent fire inspection report by the local fire department is all that is required to show proof that the building is in compliance with the applicable building codes. Fire departments generally conduct fire prevention inspections at least once in each non-overlapping 6-month period per calendar year.

CHANGE OF USE: A change of use in a building may require that modifications be made depending on the type of change that will occur. The International Existing Building Code chapter of the Commercial Building Codes may provide guidance on change of use situations.

Some situations such as those listed below might require the building owner to consult with an architect or engineer to determine whether any modifications are necessary.

• Program not previously licensed to care for children under age 2 ½ would like to modify their license to care for infants and toddlers.
• Program proposes to expand or move into a previously unused part of a building. The part of the building that will be newly designated for child care center use must be inspected for compliance with the current applicable Commercial Building Codes and this rule.
• Program intends to remodel existing child care space and the remodeling will affect structural strength, fire hazard, internal circulation or exits of existing building or structure, electrical systems or plumbing additions.

If a building has a change of use (depending on the size of the building), plans may need to be submitted to the DSPS Plan Approval section prior to the modifications being made. Only plans affecting those areas being altered must be submitted for a plan review.

The installation of a wood burning stove, carpeting or other materials into an existing child care center must be done in conformance with the building code requirements.

Amendments to the license or approval of any new space may not be granted until compliance with the Commercial Building Codes is verified by documentation from a municipality (an occupancy permit) or an architect, engineer or DSPS certified commercial building inspector.

FOR CONSTRUCTION OF NEW BUILDINGS TO BE USED AS CHILD CARE CENTERS: A plans approval application (SB-1 & 8) with instructions for plans approval must be obtained from and submitted to a DSPS plan reviewer with appropriate fees. Certified cities are authorized by DSPS to do plans approval for buildings containing 50,000 cubic feet total volume and alterations to buildings containing less than 100,000 cubic feet total volume. See the DSPS website for information about plan reviews http://dsps.wi.gov/Plan-Review.

The City of Milwaukee is certified for examination and approval of all buildings and structures regardless of size, with the exception of State-owned buildings.

In some communities an occupancy permit demonstrating compliance with building and zoning codes may be required.
(b) The department shall be given written notice of proposed construction, remodeling of existing space or change in rooms to be used by children prior to the initiation of the changes.

Note: Alterations, additions or changes of use to commercial buildings may require submittal of plans to and approval by the Department of Safety and Professional Services or its agent before commencing construction. It is recommended that an architect or engineer be consulted prior to the beginning of any construction to determine whether plans must be submitted. When a center chooses to prepare meals on the premises after the initial building inspection has been completed, a new inspection may be necessary to ensure that the applicable commercial building codes related to kitchens have been met.

(c) Space designated for use by children may only be used by children and staff and may not be used for other purposes while the center is open.

The rule is intended to cover a wide variety of situations such as, but not limited to:

1. Space used by children may not be used as access for other places of business or other programs like organizations that may use the same building when the children are present.
2. Parking lots used as outdoor play space may not be used as parking lots with moving vehicles while children are using the space.
3. Space allocated as self-contained classrooms or areas may not be used for meetings or other purposes by outside groups during hours of operation.
4. Bathrooms allocated for children’s use during hours of operation may be used by children including school children and center personnel only.
5. School-age programs in school buildings, where space may be used for other functions alternate space must be approved and available for use. No exception necessary.

(d) The inside temperature may not be less than 67°F.

The licensing specialist may determine the temperature in a room as follows:

- Temperature is to be measured at 24 inches above the floor level.
- Infant and Toddler Rooms: Measure 6 inches above the floor.
- Room without windows: Temperature taken in center of a room.
- Room with windows: Temperature taken one foot away from windows and at the center of room and then averaged.
- All rooms designated as child care space must comply with the 67 degrees Fahrenheit minimum.

According to the Commercial Building Code, the installation of portable space heaters shall not be used to achieve compliance with the minimum indoor temperature of 67 degrees Fahrenheit under 2009 IMC 309.1 Space-heating systems.

(e) If the inside temperature exceeds 80°F., the licensee shall provide for air circulation with fans or by other means.

Air conditioning may be used to provide air circulation. Caution should be exercised regarding placement and condition of fans. Opening windows is not sufficient to circulate the air.

(2) PROTECTIVE MEASURES.

(a) The indoor and outdoor premises shall be free of hazards including any recalled products.

See DCF 251.03 (13m) DEFINITION – HAZARD. It is the licensee’s responsibility to ensure that they are aware of any recalled products and to remove them from the areas occupied by children.

ASBESTOS: If there is suspicion of asbestos hazard, inspection and testing is required and appropriate containment and abatement practices should be employed. The Department of Natural Resources has an asbestos abatement specialist who can provide additional direction and information on Div. 2 – Asbestos Abatement Section 02080 in relation to air monitoring exposure levels and clean-up procedures. For a list of DNR offices see www.dnr.wisconsin.gov.

MOLD: If there is a musty odor or you can see mold growth, steps should be taken to identify the source of the moisture causing the mold. The local public health department or the Wisconsin Focus on Energy Program (1-800-762-7077) may be able to help find a consultant who specializes in building assessments to analyze the building and suggest remediation remedies.

RADON: Testing is recommended but not required.

WATER TEMPERATURE: A temperature between 100 and 105 degrees Fahrenheit is recommended. The maximum hot water temperature should not exceed 120 degrees Fahrenheit. Scald prevention devices are recommended.

POISONOUS PLANTS: See Appendix J Resources List, Common Plants – What’s Poisonous.

SPRAY DISINFECTANTS: Use of spray disinfectants on garbage containers and other surfaces in the building is not recommended due to the potential for irritation to mucous membranes in young children.

See DCF 251.06 (11)(b) 6. OUTDOOR PLAY SPACE – POTENTIAL SOURCE OF HARM.
251.06(2)(a) Note:

Note: Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at https://datcp.wi.gov/Pages/Publications/KeepYourKidsSafeNewsletter.aspx or by contacting the United States Consumer Products Safety Commission (US CPSC) at 1−800−638−2772.

(b) Steam radiators, fireplaces, wood burning stoves, electric fans, electric outlets, electrical heating units and hot surfaces, such as pipes, shall be protected by screens or guards so that children cannot touch them.

Tamper resistant electrical outlets do not need to be covered by guards. No exception is necessary.

(c) Firearms, ammunition and other potentially dangerous items may not be kept on the premises.

When group child care for 9 or more children occurs in a residence, an exception may be granted for the storage of guns / rifles and ammunition belonging to the home / residents when alternative protections are provided — e.g., locked storage or area totally inaccessible to children at all times.

(d) Materials harmful to children, including power tools, flammable or combustible materials, insecticides, matches, drugs and other articles hazardous or poisonous to children shall be in properly marked containers and stored in areas inaccessible to children.

Under this rule, inaccessible is defined as difficult to obtain or out of reach of children. Safety latches are an acceptable method to make them inaccessible.

Any items labeled “poisonous” or “keep out of reach of children” and items in spray can are considered harmful to children and may not be accessible to children.

Antibacterial hand soap is not recommended. Refill containers of antibacterial soap may not be accessible to children.

There may be times when a program wishes to use an item labeled “keep out of reach of children” for an organized art/science activity. These types of activities are permitted as long as the activity is closely supervised by a child care worker who is readily available to assist the children if necessary. The use of these materials for art/science projects should be based on the ages and developmental levels of children using the materials e.g. it would not be appropriate for infants or toddlers to use shaving cream as a finger painting medium because they may put their hands in their mouths to “taste” the shaving cream.

See Appendix J, Resources List; Common Plants – What’s Poisonous.

(e) A motor vehicle shall be immediately available at the center at all times in case of an emergency if a public or private rescue or emergency vehicle cannot arrive at the center within 10 minutes of a phone call.

(f) The center shall have a working telephone or access to a working telephone on the premises during hours of operation, with a list of emergency telephone numbers, including telephone numbers for the local rescue squad, fire department, police department or other law enforcement agency, poison control center and emergency medical service posted near each telephone. In this paragraph, “telephone” does not include a pay telephone requiring payment to reach the operator or a telephone in a locked room.

If a center is located in a community with 911 services, the only phone numbers required to be posted are 911 and poison control. The statewide toll-free phone number for poison control is 1-800-222-1222.

It is recommended that the street address for the center be posted near the telephone, and it is recommended that the phone number for the local child protective services agency be available near the phone as well.

A working telephone is defined as a phone that is capable of making and receiving phone calls. Cell phones and cordless phones may be used as the only phone in a center if the phone is charged and there are no dead spots in the center that would prohibit calls from being received or made. If a cell phone or cordless phone is used as the only working phone in a center, the emergency numbers need to be conspicuously posted in a readily visible area. Cell phones must remain at the center when children are present at the center. When all the children are on a field trip, the cell phone may be taken on the field trip.

(g) Stairs, walks, ramps and porches shall be maintained in a safe condition and free from the accumulation of water, ice or snow.

(h) Smoking is prohibited on the premises of the center when the children are present.

2009 WI Act 12 banned smoking in all public places and workplaces, regardless of whether the building is publicly or privately owned.

Use of an electronic smoking device or electronic cigarette (e-cigs) is prohibited on the premises when children are present.

When a child care center is located in a building that houses other separate businesses or is used during child care hours for other purposes, the premises includes the indoor and outdoor spaces that have been specifically identified as part of the child care program.

See DCF 251.08(2)(c) SMOKING IN VEHICLE.
Under the influence of any alcohol or non-prescribed controlled substance, during the hours of the center’s operation. A center shall do all of the following:

- Making sure that all staff members know what their duties are if there is a fire, tornado, tornado warning, a missing child or other emergency. A center shall do all of the following:

  (a) Post the fire evacuation and tornado plan and practice implementing the fire evacuation plan monthly.
  
  Tornado drills shall be conducted monthly from April through October.

  (b) Make sure that all staff members know what their duties are if there is a fire, tornado, tornado warning, missing child or other emergency.

  Staff responsibilities during fire, tornado and other emergencies should be defined in the contingency plans required under DCF 251.04(2)(i). Licensing specialists may verify that staff know what their duties are in a fire, tornado or other emergency by reviewing the orientation checklist, interviews with staff or having the center conduct a drill while the licensing specialist is present.

- Licensing staff may ask centers to conduct a fire or tornado drill during a site visit. Fire departments are required under section SPS 314.01(13)(b)3. to conduct inspections "at least once in each non-overlapping 6-month period per calendar year" unless a different frequency is established in a first class city, or by a local ordinance, or by a department special order.

- The center emergency plan should address all the emergencies identified in DCF 251.03 (10m) that might occur at the center (e.g., if the center is not located in an area that is subject to floods, the emergency plan does not need to address floods). The plan should include staff member duties and responsibilities; exiting on all levels used by children in care; reunification plans to ensure that parents know when and where to pick up children, special situations that may affect evacuation including accommodating infants, toddlers or a child with special needs who may require additional assistance, and identifying items that are recommended to be with the staff—such as attendance list, emergency cards, flashlight, battery-operated radio or cell phone. Information on developing emergency plans can be obtained from local fire Departments, local emergency management or the Child Care Information Center at https://dcf.wisconsin.gov/ccic or 1-800-362-7353.

- Use of a one-exit basement as an emergency shelter during tornadoes and similar emergencies is allowed. Use of a one-exit level is prohibited for any other purpose.

- The national weather service continuously broadcasts updated weather warnings and forecasts that can be received by NOAA weather radios. Television and radio are also excellent sources of warning information. Contact local fire department or emergency government to determine the safest place in the building during a tornado warning.

- See DCF 251.10(4) (c) NIGHT CARE – FIRE EVACUATION DRILLS.

- Tornado drills shall be conducted monthly from April through October.

- It is recommended that the evacuation diagram (fire and tornado) be posted in every room near the exit door.

- Evacuation drills must be practiced using the appropriate warning device—i.e., local alarm or interconnected or battery-operated smoke detectors. If a building has a fire protection system (sprinklers) that does not have an audible signaling device, the use of a battery-operated smoke detector is recommended. Other types of manual signaling devices are not recommended as the goal is to accustom the children to hearing a sound that might be triggered in a real emergency. The tornado evacuation area should be accessible and free of hazards during tornado season.

- Children are not required to exit the building completely during a fire drill in winter or inclement weather; however they should be directed to proceed to the nearest exit and staff should review with the children how an actual fire would affect the program. Children shall not take the time to put on their coats before evacuating a building.

- Both fire and tornado evacuations should be practiced on a varied schedule developed by the center.

- Tornadoes can occur at any time of year, but peak months in Wisconsin are during the summer. The national weather service continuously broadcasts updated weather warnings and forecasts that can be received by NOAA weather radios. Television and radio are also excellent sources of warning information. Contact local fire department or emergency government to determine the safest place in the building during a tornado warning.

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- See DCF 251.10(4) (c) NIGHT CARE – FIRE EVACUATION DRILLS.
251.06(3)(c)

(c) Keep a written record of dates and times of all fire and tornado drills practiced.

Note: The licensee may use the department’s form, Fire, Safety and Emergency Response Documentation – Group Child Care Centers, to record dates and times of the monthly fire or tornado practice. Information on how to obtain the department’s form is available on the department’s website, http://dcf.wisconsin.gov, or from any regional licensing office in Appendix A.

The written record must contain the time of day and length of the time the drill took to complete. The recommended goal for exiting time is less than 2 minutes.

(4) FIRE PROTECTION.

Fire departments are required under section SPS 314.01(13)(b)3. to conduct inspections “at least once in each non-overlapping 6-month period per calendar year” unless a different frequency is established in a first class city, or by a local ordinance, or by a Department special order.

(a) Each fire extinguisher on the premises of a center shall be operable at all times, inspected once a year by a qualified person and bear a label indicating its present condition and date of the last inspection.

For questions regarding the type and numbers of fire extinguishers, the center may consult the local fire department. It is the responsibility of the licensee to ensure that the extinguishers are inspected by a commercial fire safety company or fire department and appropriately tagged.

(b) All staff members shall be instructed in and knowledgeable about the use of the fire extinguishers.

Priority should be given to immediate evacuation of children. Get out and stay out.

(c) Each floor used by children shall have at least 2 exits.

(d) Exits and exit passageways shall have a minimum clear width of 3 feet and be unobstructed by furniture or other objects.

(e) An extension cord may not be used permanently with an appliance.

“Extension cord” means a cord set consisting of a length of flexible cord with an attachment plug at one end and a cord connector, which permits the connection of one or more attachment plugs, at the other end. Extension cords shall only be permitted for temporary use with portable appliances, hand tools or fixtures; shall be of a 3-wire grounding type when used in conjunction with devices equipped with 3-prong grounding-type attachment plugs; and shall serve only one portable appliance, hand tool or fixture.

“Surge Suppression Devices” (e.g., surge protectors, circuit breaker bars) means an electrical device designed to protect a piece of equipment against the harmful effects of power surges, spikes and sudden outages consisting of an attachment plug and a length of flexible cord terminating in an enclosure in which are mounted one or more receptacles with supplementary over-current protection, switches, indicator lights, transient voltage surge suppressors, or electromagnetic interference filters. Small “portable” appliances such as computers, televisions, microwaves, aquariums, etc. may use UL listed surge suppression devices having the ability to limit an electric current above the appliance’s rating.

Extension cords and surge suppression devices must be listed by UL or another approved nationally recognized testing agency; may be used with large appliances such as full-size refrigerators and shall be protected from physical impact and environmental damage; may not be multiplied or plugged into one another; and may not be attached to structures or placed under doors or floor coverings.

(f) No more than 2 electrical appliances may be plugged into any one wall outlet.

See par. (e) above for information regarding surge suppression devices such as circuit breaker bars and surge protectors.

(g) The door to the basement and furnace room shall be closed.

(h) Areas under stairs may not be used for storage.

Metal objects such as chairs and certain toys may be stored under stairs. Combustible materials such as paper, cardboard, wood, cloth, rubber and many plastics and hazardous equipment holding or conveying flammable liquids, gases or toxic gases are prohibited under stairs unless the fire inspector provides written authorization to permit storage under stairs.

(i) All exit lights shall be lit at all times.
(j) Fire alarms, alarm systems and smoke detectors shall be maintained in good working order. Fire alarms and smoke detectors shall be used to conduct monthly fire evacuation drills. Fire alarms and smoke detectors shall be tested weekly and a record kept of the test results.

**Note:** The licensee may use the department’s form, Fire, Safety, and Emergency Response Documentation – Group Child Care Centers, to document the results of the weekly testing of fire alarms and smoke detectors. Information on how to obtain the department’s form is available on the department’s website, [http://dcf.wisconsin.gov](http://dcf.wisconsin.gov), or from any regional licensing office in Appendix A.

An alarm system may also be called a fire protection system or sprinkler system. When a building has sprinklers, there may or may not be pull stations or individual alarms in the building. Fire alarm (protection) systems or sprinkler systems must be monitored for operating order by a qualified monitoring agency. Evidence of operating condition could be a monitoring record obtained from the qualified monitoring agency.

Smoke detectors or fire alarms need only a monthly test due to changes in the commercial building codes. No exception is necessary. If the building has smoke detectors or individual alarm stations, those smoke detectors or alarm stations must be used during fire drills and tested monthly to ensure they remain in operating condition.

The fire evacuation drill can be the monthly test of the smoke detection system provided the building system is used to sound the alert.

Individual alarm units in a multi-station interconnected fire alarm system should be tested on a rotating basis. The requirement for testing applies regardless of a connection to a local fire station or other monitoring service.

It is recommended that if there is no audible alarm present in the building, a battery-operated smoke detector or similar device must be used to conduct fire drills so that children become familiar with the sound of a fire or smoke signaling device.

Requests for exceptions will be considered on a case by case basis when using a building fire alarm or smoke detection system would disrupt a larger organization such as a nursing home, school or community center.

**SEE DCF 251.095 (3)(d) SCHOOL-AGE RULE EXEMPTIONS – TESTING ALARMS IN SCHOOL BUILDINGS.**

(k) Unvented gas, oil or kerosene space heaters are prohibited.

Vented gas, oil or kerosene space heaters, pellet stoves or other stoves that use alternative fuels may be used if they are installed according to manufacturer recommendations. It is recommended that written documentation of proper installation be obtained from the installer, an insurance agent, the local fire department or a building inspector.

*Electric space heaters should have an automatic shut off and should not be used near flammable materials.*

**See DCF 251.06(2) (b) ELECTRICAL OR HOT SURFACE PROTECTION.**

(5) SANITATION.

(a) The premises shall be free from litter, clean and in good repair.

(b) 1. There shall be no flaking or deteriorating paint on exterior or interior surfaces in areas accessible to children.

**The rule does not require that the whole room or total outside wall be refinished. The area of flaking or deteriorating paint should be refinished in a manner that protects the children in care.**

2. No lead-based paint or other toxic finishing material may be used.

**Administrative Rule DHS 163 applies to child care centers when renovation or repair is made to any surface where 6 sq. ft. or more of interior paint or 20 sq. ft. of exterior paint is disturbed in a building that was built prior to 1978. Any renovation or repair that involves windows in a building built prior to 1978 must also be conducted in accordance with DHS 163. See Appendix J Resources List; Renovate Right – Important Lead Hazard Information for Families, Child Care Providers and Schools.**

(c) Garbage containers in the building shall be rigid, covered, watertight and emptied daily or more often as needed. Compactors need not be emptied daily. Garbage and refuse stored out of doors shall be kept in leak-proof containers equipped with tight-fitting covers and shall be disposed of as necessary to prevent decomposition or overflow.

*Garbage refers to food waste. Containers for non-food waste do not require covers.*

**Garbage containers should be rigid and impervious to vermin. Storage of garbage out of doors in plastic or paper bags only is not permitted.**
251.06(5)(d)

(d) Furnishings, toys, cots and other equipment shall be washed or cleaned when they become soiled. Eating surfaces shall be washed and sanitized before and after each use.

Eating surface includes tables and high chairs. "Washed and sanitized" involves a two-step process. Products including a cleaner and sanitizer must be used two times—the first to clean the surface and the second to sanitize the surface. See Appendix J Resources List; Cleaning, Sanitizing and Disinfecting in Child Care.

See Appendix J Resources List, Cleaning, Sanitizing and Disinfecting in Child Care Centers. Only approved sanitizers may be used for eating surfaces and food preparation surfaces.

Some bleach is now being sold with a higher concentration of sodium hypochlorite than was previously available (8.25% sodium hypochlorite solution versus the formerly available bleach solution of 5.25%-6%). The 8.25% solution is being produced by both brand name companies as well as companies that produce generic products. Several companies have indicated that they have discontinued manufacturing the 5.25%-6% sodium hypochlorite bleach solution and it will no longer be available at many stores. If you use bleach with a higher concentration of sodium hypochlorite it must be an EPA registered product and the label instructions must be followed when using the bleach for disinfecting or sanitizing.

Children should not be at the table when staff are sanitizing.

(e) 1. Toilet rooms and fixtures shall be in a sanitary condition at all times.
2. Potty chair receptacles shall be emptied and rinsed and the potty chair and receptacle shall be disinfected immediately after each use with a chlorine bleach solution of one tablespoon to one quart of water, made fresh daily.

(f) Windows and doors that are used for ventilation shall be screened.

If a window is locked, it is not used for ventilation and does not need a screen.

(g) The premises shall be maintained to prevent the entrance or harborage of vermin.

Vermin could be any of various insects such as flies, roaches or lice or any of various disease-carrying animals such as rats, birds, bats, mice or weasels. This list is illustrative.

The exterior of the building should be free of openings around cables and utilities, under doors or broken windows. The garbage storage area should be free of litter, rubbish piles, burrow holes and droppings and should be rodent proof. Metal containers are recommended.

Suspected infestations require the services of a commercial pest control service. Evidence of the provision of a pest control service may be provided by written contract or receipt.

An integrated pest management program is recommended to reduce exposure to pesticides. See https://www.epa.gov/managing-pests-schools/introduction-integrated-pest-management for more information.

(6) WATER.

(a) A safe supply of drinking water shall be available to children at all times from a drinking fountain of the angle jet type or by use of disposable cups. Common use of drinking cups is prohibited.

When a drinking fountain is used, the water supply shall be of sufficient volume and height so the person’s mouth need not come in contact with the fountain’s spout.

(b) If the center gets its water from a private well, the following shall apply:

The licensee is responsible for the water tests and making the reports available. The DNR website has information on testing private wells www.dnr.wi.gov.

1. Water samples from the well shall be tested annually for lead and bacteria by a laboratory certified under ch. ATCP 77. The laboratory report shall be available to the department upon request.

Tests for lead levels in water are only required every 3 years per the Safe Drinking Water requirements through the Department of Natural Resources. No exception is necessary.

Bacterial testing is required yearly.

2. A center serving children under 6 months of age shall have the water tested annually for nitrate levels.

Note: Section NR 809.11 sets the maximum allowable level of nitrate-nitrogen in public drinking water at 10 milligrams per liter (10 parts per million).

3. If water test results indicate the water contains high levels of lead or is bacteriologically unsafe, the water shall be appropriately treated and re-tested until it is determined to be safe. Bottled water shall be used until the water is determined to be safe. If the water tests above the maximum allowable level of nitrates, bottled water shall be used for infants under 6 months of age.
Note: Centers using a private well that serves at least 25 of the same people over 6 months of the year are considered to have a non-transient non-community water system (NTNC) and must be in compliance with Chapter NR 809, Safe Drinking Water Act Standards. Contact the nearest Department of Natural Resources from the list at: www.dnr.state.wi.us/org/caer/cs/ServiceCenter/SSbyRegion.html

The State Plumbing Codes require that any plumbing system in any building be provided with water from a known potable and bacteriologically safe source [SPS 382.10 (2)(a) Every building intended for human occupancy shall be provided with an adequate, safe and potable water supply.] The use of bottled water is allowed only on a very temporary basis until a complying water supply is provided.

If the water tests high in nitrates, the center must still obtain an annual water test for nitrates.
If the water is bacteriologically unsafe or has high lead levels, it must be treated and retested.
If water is bacteriologically unsafe, bottled water shall be used for hand washing and laundering in addition to drinking and cooking.

Contact the DNR Bureau of Drinking Water and Groundwater for more information at www.dnr.wisconsin.gov.

(7) INDOOR SPACE.

(a) The space used by children shall be no less than 35 square feet of usable floor space for each child, exclusive of passageways, kitchens, bathrooms, coat storage areas, offices, storage areas, isolation quarters, staff room, furnace room, parts of rooms occupied by stationary equipment, and areas not at all times available to children, including areas used exclusively for large muscle activity, napping or eating.

USABLE SPACE: Self-contained rooms or areas are used to determine licensed maximum capacity. Other space in the center, as specified in rule, is not used to determine licensed capacity. See DCF 251.03(28) DEFINITION – SELF-CONTAINED ROOM OR AREA and DCF 251.03 (12) DEFINITION – GROUP.

CALCULATIONS TO DETERMINE AVAILABLE INDOOR SPACE FOR CAPACITY: To determine the licensable capacity based on indoor square footage, measurements of the spaces used by the children must be taken. Measurements should be calculated using a length times width (L x W) formula. Inches will be converted to a decimal for ease of multiplication. If the space to be measured does not easily adapt to L x W formula, the space should be broken down into more easily defined squares and rectangles. Triangle-shaped spaces can be calculated using a 1/2L x W formula.

Each room will be measured with a maximum room capacity determined. If the calculations result in a number with a decimal point, the number of children to be accommodated in that space should reflect the whole number with the decimal amount dropped. To obtain the maximum allowable children in the center, based on indoor space only, the individual room capacities are added together. Actual capacity may be different from the maximum capacity taking into account numbers 1 – 9 below.

Documentation of licensable capacity for the facility file and the licensee should be in the form of a letter outlining the measurements taken, deductions made and calculations done or a diagram of the indoor space including measurements, deductions and calculations.

The licensable capacity of a center is based on a number of determinations. The actual licensed capacity of a center will take all determinations into account. Following are the items that must be considered when determining the maximum capacity of a center:

1. Amount of square footage of self-contained rooms or areas used by the children
2. Number of toilets and washbasins available to children [See DCF 251.06(10)(a)]
3. Staff–to–child ratio and maximum group size [See DCF 251.05(4)(a) & (b)]
4. Amount of equipment present [See DCF 251.07(3)(c)]
5. Amount of cots, mats or sleeping bags available, if applicable [See DCF 251.07(4)(c)]
6. Space occupied by all cribs including play pens, portable cribs or pack and plays regardless of whether the cribs are taken down to make additional room when not in use [See DCF 251.09(1)(h)]
7. Square footage of outdoor play space unless an exemption has been requested and approval given [See DCF 251.06(11)(b)]
8. Storage space for children’s clothing and personal belongings so that each child in the licensed capacity has a storage space [See DCF 251.06(8)(e)]
9. The qualification of the directors [See DCF 251.05(1)(c)]

Licensees are responsible for reporting changes in room usage and the removal and/or addition of equipment to rooms. A center’s capacity may be adjusted based on a recalculation of available space.

Information on the available space should be reviewed by the licensing specialist periodically to ensure that the space available to children has not changed due to the addition or removal of deductible equipment/furnishings from a room or area. Any changes that would reduce a center’s capacity based on a recalculation of available space should be discussed with the licensing chief.
251.06(7)(a) continued

In measuring the space, the area under the stairs of the room should not be counted.

LOFTS: Lofts that are connected or attached to the building may not be counted as additional play space for determination of licensed capacity unless the loft has been inspected and approved by a private or certified building inspector under SPS 321.22 Wood Frame Floors.

PASSAGEWAYS AND HALLS: In passageways and halls that exceed the minimum required width for a passageway or hall (3 feet or larger depending on number of occupants in building), the additional space may not be counted as space to increase the licensed capacity.

(b) There shall be additional storage space for cots, bedding, supplies and equipment not in use.

(8) FURNISHINGS.

(a) Furnishings shall be durable and safe, with no sharp, rough, loose or pointed edges.

(b) Tables and seating shall be scaled to the proper height and size for the children’s comfort and reach.

It is recommended that the seat on the chair should be 10” below the table top.

(c) 1. Except as provided in subd. 2., in a center where meals are served, seating shall be at least equal to the licensed capacity of the center, excluding infants, so that the children can be served at the same time, and there shall be space at a table for each child.

Where only snacks are served, table and chair space for each child is not required if snacks are served in shifts or cafeteria style.

2. In a center where meals are served in a central lunchroom, seating and table space shall be at least equal to the number of children to be served in a shift.

(d) Shelves shall be provided for equipment and supplies in rooms used by children. Equipment and supplies shall be arranged in an orderly fashion so that children may select, use and replace items.

Stable shelving should be supplied in a quantity sufficient to accommodate the amount of play equipment needed to meet the rule for each self-contained classroom / area and group. It is recommended that centers do not use toy boxes with hinged covers because the cover may fall and trap or injure a child.

(e) There shall be sufficient storage space for clothing and personal belongings to accommodate the clothing and personal belongings of as many children as are in the licensed capacity of the center. For children 2 years of age and older, the space for outer garment storage shall be at child level.

(f) A safe, washable cot, bed, two-inch thick mat or sleeping bag shall be provided for each child 12 months old or older who naps or sleeps.

(g) A safe, washable crib or playpen shall be provided for use of each child less than 12 months old who naps or sleeps. A crib or playpen shall be washed and disinfected between changes in occupancy.

Note: See Appendix D for information on safe cribs and playpens.

Since December 28, 2012, all full or non-full size cribs used in child care are required to meet new federal requirements for overall crib safety. See the Consumer Products Safety Commission website www.cpsc.gov.

(9) KITCHENS.

(a) Equipment and utensils.

1. When meals are prepared or heated on the premises, the kitchen shall be equipped with a microwave or stove with an oven, a refrigerator, a sink and utensils that are necessary to prepare and serve meals. The sink shall be used exclusively for food preparation and dishwashing.

1m. Centers preparing or serving only snacks are not required to have a sink unless dishes or utensils requiring dishwashing are used. Centers preparing or serving only snacks are not required to have a microwave or stove unless the snacks served require heating. Refrigerators are required if the center serves milk or other perishable snacks.

2. All equipment and utensils shall have smooth, hard surfaces, be easily cleanable, in good repair, durable, non-toxic and free of cracks, seams, chips and roughened areas, and shall be maintained in a clean and sanitary condition.

See Appendix J Resource List, Cleaning, Sanitizing and Disinfecting in Child Care Centers. Only bleach or an approved sanitizer may be used to sanitize dishes and food preparation or service areas.

See Appendix J Resources List; Cleaning, Sanitizing and Disinfecting in Child Care Settings. Some bleach is now being sold with a higher concentration of sodium hypochlorite than was previously available (8.25% sodium hypochlorite versus the formerly available bleach concentration of 5.25%). If a program uses a bleach solution with a higher concentration of sodium hypochlorite it must be an EPA registered product and it must be diluted based on label instruction for sanitizing dishes, utensils, food preparation areas as well as food service surfaces. It is recommended that eating utensils be age and developmentally appropriate to the children.
3. Food preparation tables shall be durable, and surfaces shall be smooth, non-absorbent and easily cleanable.
4. After cleaning, utensils shall be stored in a clean, dry place and protected from contamination.
5. Single-service utensils shall be non-toxic, stored in a clean, dry place, kept covered, and may not be reused.

Single service refers to cups, containers, lids or closures, plates, knives, forks, spoons, etc. intended by the manufacturer for one-time, one-person use and then to be discarded.

6. Infant bottles and nipples may not be reused without first being cleaned and sanitized.

(b) Dishwashing procedures.
1. All kitchen utensils and food contact surfaces used for preparation, storage or serving of food shall be thoroughly cleaned and sanitized after each use.
2. All utensils and dishes shall be scraped, sorted and prewashed under running water.
3. For manual washing of dishes and utensils, a 3-step procedure shall be used:
   a. Wash in water between 110° and 125°F., using an effective soap or detergent.
   b. Rinse by immersing dishes and utensils in clean, hot water to remove soap or detergent.
   c. Sanitize by submerging dishes and utensils for at least 2 minutes in 1½ teaspoons of bleach per gallon of water or another solution of a sanitizer approved by the department.

Some bleach is now being sold with a higher concentration of sodium hypochlorite than was previously available (8.25% sodium hypochlorite versus the formerly available bleach concentration of 5.25%). If a program uses a bleach solution with a higher concentration of sodium hypochlorite it must be an EPA registered product and it must be diluted based on label instruction for sanitizing dishes, utensils, food preparation areas as well as food service surfaces.

See Appendix J Resources List, Cleaning, Sanitizing and Disinfecting in Child Care Centers. Only bleach or an approved sanitizer may be used to sanitize dishes and food preparation or service areas.

See Appendix J Resources List; Cleaning, Sanitizing and Disinfecting in Child Care Settings.

4. a. If a center uses a commercial dishwasher to clean dishes and utensils, the dishwasher shall have a readily visible temperature gauge located in the wash compartment. If the dishwasher is a spray type or immersion type dishwasher, a temperature gauge shall also be located in the rinse water line.
   b. Wash at 130 degrees Fahrenheit to 150 degrees Fahrenheit for at least 20 seconds, using an effective cleaning agent, and rinse and sanitize at 180 degrees Fahrenheit for 10 seconds or more, using an automatic rinse injector.
   c. When using a spray-type dishwashing machine, the dishes and utensils shall be washed, rinsed and sanitized in the dishwasher according to the manufacturer's operating instructions. A chemical sanitizer shall be used in the final rinse.
5. If the center uses a home-type dishwasher to clean dishes and utensils, the dishes and utensils shall be washed and rinsed in the dishwasher and sanitized by submerging dishes and utensils for at least 2 minutes in 1½ teaspoons of bleach per gallon of water or other solution approved by the department.

Sanicycles may not substitute for the requirement for sanitizing dishes unless the center can document that the hot water (Sanicycle) booster with the home-type dishwasher can raise the temperature of the rinse water to a temperature of no less than 180 degrees Fahrenheit for ten seconds or more.

6. All dishes and utensils shall be air-dried in racks or baskets or on drain boards.

Note: A list of approved sanitizers is available from the Department of Health Services, Division of Public Health, P.O. Box 2659, Madison, WI 53701-2659.

(c) Food sources.
1. Food shall be clean, wholesome, free from spoilage, free from adulteration or misbranding and safe for human consumption. Meat, poultry, fish, molluscan shellfish, eggs and dairy products shall be from an inspected source.

Fresh produce may be purchased from farmers markets. Home-raised eggs are acceptable with parental notification and food program permission, if participating in CACFP.

If there is an expiration or “use by” date on a package, the food must be used prior to that date. If there is a “sell by” date on a package, the food must be used within 3 days after that date. If there is a “best by” date on a package the food must be used within 7 days of that date. Canned foods with a date printed on the can by the manufacturer must be used by the date indicated on the can. Best practice standards would recommend that food be used by the date on the package regardless of whether the date is an expiration, use by, sell by or best by date.

See Appendix J Resources List; Safe Food Storage.
251.06(9)(c)2.

2. Only milk and milk products which are pasteurized and meet the Grade A milk standards of the Wisconsin department of agriculture, trade, and consumer protection may be served or used.

3m. Meals shall be prepared on the premises, in a central kitchen operated by the child care center or in another location that has been inspected by a representative of a state agency.

Note: Chapter ATCP 75, subch. III, addresses restaurants and other public eating establishments. Chapter ATCP 75, subch. II, addresses retail food establishments.

The Division of Public Health conducts inspections of public school kitchens for the Department of Public Instruction. Private school kitchens may not be inspected by another state agency unless that kitchen holds a restaurant license. Restaurants, hospitals and nursing homes and other residential agencies licensed by the Department of Health Services or the Department of Children and Families have their kitchens inspected by the licensing agency. A copy of any applicable license and the most recent inspection report is required.

The licensing specialist is the representative of the Department of Children and Families who conducts the inspection when a central kitchen operated by the licensee prepares food for other centers owned by the licensee. Agencies preparing, transporting and serving food may need a retail food establishment license. Contact the Department of Agriculture, Trade and Consumer Protection for information about obtaining a retail food establishment license www.datcp.wisconsin.gov.

See DCF 251.06 (9)(f)4. FOOD – DELIVERY VEHICLES & CONTAINERS.

4. Food in dented, bulging or leaking cans, or cans without labels, may not be used.

5. Hermetically sealed, non-acid or low-acid food which has been processed in a place other than a commercial food processing establishment may not be used.

(d) Food storage.

1. Foods shall be stored at temperatures which protect against spoilage. The following measures shall be taken to prevent spoilage:

   a. Perishable and potentially hazardous food which includes all custard-filled and cream-filled pastries, milk and milk products, meat, fish, shellfish, gravy, poultry stuffing and sauces, dressings, salads containing meat, fish, eggs, milk or milk products, and any other food or food product likely to spoil quickly if not kept at the proper temperature shall be continuously maintained at 40°F. or below or 150°F. or above, as appropriate, except during necessary periods of preparation and service.

   Wisconsin Food Code has modified the required hot temperature from 150 degrees Fahrenheit to 135 degrees Fahrenheit. No exception is necessary.

   b. Each refrigeration unit shall be maintained at 40°F. or lower and each freezing unit shall be maintained at 0°F. or lower.

   c. Each cold storage facility shall be equipped with a clearly visible accurate thermometer.

   A refrigerator that includes a freezer requires two thermometers—one for the refrigerator portion and one for the freezer portion.

   d. Food shall be covered while refrigerated, except when being cooled.

2. Foods not requiring refrigeration shall be stored in clean, dry, ventilated and lighted storerooms or areas which shall be protected from contamination by sewage, wastewater backflow, condensation, leakage or vermin. In addition:

   a. Dry foods, such as flour, sugar, cereals and beans shall be stored in bags with zip-type closures or metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled. In this paragraph, “food grade plastic” means any plastic material used in the manufacture of dishes or utensils which has been found not harmful to human health by the national sanitation foundation.

   Labels must include contents. Containers holding food that can be reliably and unmistakably identified such as dry pasta is not required to be labeled with the contents, but must be labeled with the date of placement in the container. If the original label on the food packaging indicates EXPIRATION, USE BY, BEST BY or SELL BY date, that date must be indicated on the label.

   It is acceptable to store bread and buns in their original containers.

   Reusing milk jugs for food or beverage storage is not acceptable.

   A plastic container that originally contained nonfood products may not be food-grade plastic. A single-use plastic container used by the processor to package food may be reused for food storage if container is smooth, easily cleanable and durable (e.g., Cool whip and deli containers).
b. Foods stored in the basement shall be stored at least 8 inches above the floor, and food stored in other areas shall be stored high enough above the floor to provide for air circulation and to facilitate cleaning.

(e) Cleaning aids.
1. Poisonous and toxic materials, including cleaning supplies, bleaches and insecticides, shall be labeled and stored in cabinets used for no other purpose and shall be inaccessible to children.
2. Cleaning aids such as mops, broom and buckets shall be clean and shall be stored outside of food preparation or food storage areas.

(f) Food handling.
1. Raw fruits and vegetables shall be washed before being served or cooked.
2. Food returned from individual plates or from dining tables shall be discarded.
3. Leftover prepared food which has not been served shall be dated, refrigerated promptly and used within 36 hours, or frozen immediately for later use.

See the Safe Food Storage document referenced in Appendix J Resources List for more information [https://dcf.wisconsin.gov/files/ccregulation/cclicensing/commentary/safe-food-storage.pdf].

Food that has been removed from the kitchen is considered served and may not be reused. Milk that is in the original container may be reused.

4. Food delivery vehicles shall be equipped with clean containers or cabinets to store food while in transit. Containers for cold food shall be capable of maintaining the temperature at or below 40°F. and containers for hot food shall be capable of maintaining the temperature at or above 150°F.

Wisconsin Food Code has modified the required hot temperature from 150 degrees Fahrenheit to 135 degrees Fahrenheit. No exception is necessary.

5. Potentially hazardous frozen foods shall be thawed in the refrigerator, under cold running water or on the defrost setting in a microwave oven. No potentially hazardous frozen food may be thawed by leaving it at room temperature.

Potentially hazardous frozen food includes all of the following: custard-filled and cream-filled pastries; milk and milk products; meat; fish; shellfish; gravy; poultry stuffing and sauces; dressings; salads containing meat, fish, eggs, milk or milk products; and any other food or food product likely to spoil quickly if not kept at the proper temperature.

(g) Food service personnel.
1. Personnel who help prepare meals shall:
   a. Be at least 18 years of age.
   b. Wear clean clothing and effective hair restraints such as hair nets or caps.

Persons preparing food must use a hair net or cap to prevent hair from coming in contact with food during preparation.

2. No one with an open or infected wound or sore may work in the food preparation area unless the wound or sore is covered and, if it is on a hand, a nonporous glove is worn on that hand.

(10) WASHROOM AND TOILET FACILITIES.
(a) A group child care center shall provide at least the number of washbasins and toilets with plumbing indicated in Table 251.06. Urinals may be substituted for up to 1/3 of the total required toilets.

<table>
<thead>
<tr>
<th>Maximum Number of Children for Which the Center is Licensed</th>
<th>Number of Toilets</th>
<th>Number of Washbasins</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 or 10</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>11 to 25</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>26 to 40</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>41 to 55</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>56 to 70</td>
<td>5</td>
<td>3</td>
</tr>
</tbody>
</table>
251.06(10)(b)

(b) When a center is licensed for more than 70 children, one additional toilet shall be provided for each additional 15 children or fraction thereof and washbasins shall be provided in the ratio of one for every 2 additional toilets and urinals or fraction thereof.

(c) Children under the age of 30 months need not be included when determining the required fixtures under par. (a). However, in all cases, at least one toilet and one washbasin shall be provided.

(d) If potty chairs are used for children under 30 months of age, the potty chairs shall be provided in a ratio of one for every 4 children or fraction thereof.

(e) Steps or blocks shall be provided if the washbasins and toilets are not proportioned to the size of the children.

(f) Soap, toilet paper, disposable paper towels or blower-type air dryers and a wastepaper container shall be provided and accessible to children using the facilities.

(11) OUTDOOR PLAY SPACE.

(a) Requirement for outdoor play space. A center shall have outdoor play space if children are present for more than 3 hours per day or if outdoor play is included in the center program.

(b) Required features of outdoor play space. Except when an exemption is requested and is approved by the department under par. (c), a center shall comply with all of the following requirements for outdoor play space:

1. The outdoor play space shall be on the premises of the center.

2. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time.

3. There shall be at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time except as provided in subd. 4.

4. The total outdoor play space of a center shall accommodate not less than 1/3 of the number of children for which the center is licensed or shall be a minimum of 750 square feet, whichever is greater. The number of children under one year of age need not be included for purposes of computing the minimum required outdoor play space if the center provides spaces in wheeled vehicles such as strollers and wagons equal to the number of children under one year of age.

5. An energy-absorbing surface, such as loose sand, pea gravel or pine or bark mulch, in a depth of at least 9 inches is required under climbing equipment, swings and slides and in a fall zone of 4 feet beyond and whenever play equipment is 4 feet or more in height. Shredded rubber and poured surfacing shall be installed to the manufacturer’s specifications based on the height of the equipment.

ENERGY-ABSORBING SURFACES: An energy-absorbing surface of at least 9 inches in depth is required underneath and within a 4 foot fall zone around each piece of playground equipment if the distance between the designated play space on each piece of playground equipment and the surface below is 4 feet or more.

If swings are present on the playground, the highest point in the trajectory of an occupied swing shall be considered when determining whether an energy-absorbing surface is required.

Information on safety specifications for playground equipment can be found in the standards of the American Society for Testing and Materials (ASTM F1487-95).

Close supervision is critical when children are using playground equipment because children may climb to areas other than the designated play space on each piece of playground equipment.

School age programs located in school buildings, including 4-year old kindergarten (4K) programs do not need 9 inches of energy absorbing material under and around the playground equipment.
6. The outdoor play space shall be well-drained and shall be free of hazards such as uncovered wells, cisterns and unused appliances. Structures such as playground equipment, railings, decks and porches accessible to children that have been constructed with CCA treated lumber shall be sealed with an exterior oil based sealant or stain. Wood containing creosote, including railroad ties, may not be accessible to children.

"Free of hazards" is a discretionary rule to cover a wide variety of hazardous conditions which may occur including, but not limited to, basement stairwells not protected by a fence or gate, lawn sprinkler valve boxes recessed several inches below ground with no cover, broken glass or cans, holes, fences or enclosures with an opening that allows passage of an object that is larger than 4 inches in diameter, sharp edges or points near adjacent climbing equipment, etc.

Roof-top playgrounds must always be inspected and approved prior to use by a Department of Safety and Professional Services inspector or designated certified commercial building inspector.

7. The boundaries of the outdoor play space shall be defined by a permanent enclosure not less than 4 feet high to protect the children. Fencing, plants or landscaping may be used to create a permanent enclosure. See DCF 251.06(12)(a) ON PREMISES SWIMMING POOL OR BEACH – USE & ENCLOSURE; DCF 251.06(12) (b) WADING POOL; DCF 251.06(2)(k) HOT TUB – COVERED OR FENCED; DCF 251.06(2)(L) HOT TUB – VISIBLY LOCKED DOOR; DCF 251.03(30) DEFINITION – SUPERVISION OF CHILDREN; DCF 251.095(2)(c) SCHOOL-AGE EXCEPTIONS WHEN OPERATING IN A SCHOOL BUILDING.

8. Concrete and asphalt are prohibited under climbing equipment, swings and slides.

Asphalt and concrete are unsuitable for use under and around playground equipment UNLESS required as a base for a shock-absorbing unitary material that meets ASTM requirements and manufacturer recommendations.

Note: The Consumer Products Safety Commission has a publication entitled Handbook for Public Playground Safety, Pub. No. 325 which provides information on playground safety guidelines designed to help child care centers build safe playgrounds. To obtain copies of this publication and a related public playground safety checklist, contact the Consumer Products Safety Commission at www.cpsc.gov or 1-800-638-2772.

(c) Exemption for off-premises play space.

1. In this paragraph, "main thoroughfare" means a heavily traveled street or road used by vehicles as a principal route of travel.

1m. If a center has no outdoor play space available on the premises of the center, the licensee may request an exemption from the requirements under par. (b) for a center’s outdoor play space.

Exemptions will not be issued to programs that have available on-site play space that is suitable for children’s use.

2. A request for an exemption under subd. 1m. shall be in writing and shall be accompanied by a plan for outdoor play space which does all the following:
   a. Identifies and describes the location to be used, the travel distance from the center to that location and the means of transporting the children to that location.
   b. Provides for adequate supervision of the children as specified in Table 251.05-D.
   c. Provides for daily vigorous exercise in the out-of-doors for the children.
   d. Describes the arrangements to meet the toileting and diapering needs of the children.
   e. Affirms the center’s compliance with the requirements included in subds. 3. to 6.

Note: Send the request for an exemption and the off-premises outdoor play space plan to the appropriate regional office in Appendix A.

3. The off-premises outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced in-ground swimming pools, heavily wooded areas and nearby highways and main thoroughfares.

4. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time, and at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time.

5. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

6. When the off-premises outdoor play space is reached by walking, the center shall transport children under 3 years of age in wheeled vehicles, such as strollers or wagons, with a seating capacity equal to the number of children under 3 years of age to be transported.

7. A center’s plan for use of an off-premises outdoor play space is subject to approval by the department. Within 30 days after receipt of a plan and request for an exemption from the requirements of par. (b), the department shall either approve the plan and grant the exemption or not approve the plan and therefore deny the request for exemption. The department shall notify the center in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.
251.06(11)(c)8.

8. If any circumstance described in an approved plan for use of off-premises outdoor play space changes or if any condition for plan approval is not met or is no longer met, the department may withdraw its approval of the plan and cancel the exemption. A center with an approved plan shall immediately report to the department’s licensing representative any significant change in any circumstance described in the plan.

(12) SWIMMING AREAS.

(a) Above-ground and in-ground swimming pools, and beaches on the premises may not be used by children in care. Swimming pools shall be enclosed by a 6-foot fence with a self-closing, self-latching door. Spaces between the vertical posts of the fence shall be 4 inches or less. Access to a beach shall be restricted by a 6-foot fence.

To adequately protect children when a pool is on the child care center premises, the following steps must be taken:
1. If access to the pool is through a gate, the gate must be closed and visibly locked during the licensed hours of the center.
2. If the pool is accessible through a door from the child care building, that door must be closed with a visible lock during the licensed hours of the center, and an alarm must be in place at the door to signal that someone has entered the pool area. Above-ground and in-ground swimming pools on the premises may not be used by children in care and shall be enclosed by a 6-foot fence with a self-closing, self-latching door.
   Spaces between the vertical posts of the fence shall be 4 inches or less.
3. Locks shall be located so that the locks cannot be opened by the children.

Floating pool alarm devices are not acceptable in lieu of the above protections, because they only work AFTER a disturbance to the pool’s surface.

If the pool is located inside the fenced area of the outdoor play space, it must be enclosed as described above unless an exception under DCF 251.06(12)(a) has been requested and approved. The free-standing wall of an above-ground pool may not serve as an enclosure unless it is 6 feet in height and not climbable. If a ladder is present, the ladder must be removed or raised up so that it is inaccessible to the children.

The area around the pool must be kept free of toys or equipment that would allow a child to climb or otherwise gain access to the pool area.

A stipulation shall be signed and posted specifying the protections that will always be in place during hours of operation.

There may be some programs such as YMCAs that have a swimming pool on the premises of the center. The pool is designed primarily for community or member use. These programs may also have a swimming component as part of the child care program. An exception for the use of these pools may be granted on a case-by-case basis with the approval of the licensing chief/supervisor. Criteria for considering an exception request to allow the use of these pools must include assurances that all the items under DCF 251.06(12)(c) will be met and that an appropriate supervision plan is in place.

Centers that have a beach on the premises should consult with the licensing specialist to determine the best way to restrict the children’s access to the beach. An exception may be issued after review of the alternative protections proposed by the center to meet the intent of the rule.

(b) A wading pool on the premises may be used if the water is changed and the pool is disinfected daily. Supervision and staff-to-child ratio requirements under s. DCF 251.05 (3) and (4) shall be met.

See DCF 251.03 (35) DEFINITION – WADING POOL.

The provider must be able to demonstrate that the pool can be easily dumped, appropriately cleaned and disinfected daily.

The American Academy of Pediatrics, in the book Caring for Our Children – National Health and Safety Performance Standards for Out of Home Care, states that the use of wading pools for children is not recommended. Standing water is a breeding source of bacteria and insects that carry disease. Instead, sprinklers, hoses or water tables may be used as an alternative for water play.

(c) A wading pool, pool, water attraction or beach that is not located on the center premises may be used by children, if all the following conditions are met:

DHS 172.03 (53) In part, “Water attraction” means a public facility with design and operational features that provide patron recreational activity other than conventional swimming and involves partial or total immersion of the body. Types of water attractions include activity pools, interactive play attractions, leisure rivers, plunge pools, vortex pools, vanishing edge pools, waterslides, runout slides, drop slides, pool slides, wave pools, zero-depth entry pools, and any public pool with play features. This does not include splash pads.
1. The construction and operation of the pool shall meet the requirements of chs. SPS 390 and ATCP 76 for public swimming pools. A beach shall comply with any applicable local ordinance.

2. Certified lifesaving personnel shall be on duty.

When the center provides a lifeguard, the lifeguard cannot be counted in staff-to-child ratios.

3. While children are in the water of a pool, wading pool, water attraction or beach, staff-to-child ratios for child care workers who can swim shall be:

Swimming ratios do not apply to organized swim lessons, but staff-to-child ratios under TABLE DCF 251.05 – D must be maintained in or near the pool area.

   a. For children under 3 years of age: 1:1.
   b. For children 3 years of age: 1:4.
   c. For children 4 and 5 years of age: 1:6.
   d. For children 6 years of age and older: 1:12.

4. When a mixed age group of children are swimming, the staff-to-child ratio shall be adjusted based on the number of children in the water and each child’s age.

   Note: A worksheet to help calculate the staff to child ratio for mixed aged groupings during swimming is available from the department. Requests may be made to the licensing representative or regional licensing office listed in Appendix A.

The department’s form DCF-F-2465 Staff to Child Ratio while Swimming Worksheet is available on the DCF website www.dcf.wisconsin.gov.

5. A child shall be restricted to the area of the pool or beach that is within the child’s swimming ability.

Either the center or a child’s parent may determine a child’s swimming ability.

6. If some of the children are in the water and others are not, there shall be at least 2 child care workers supervising the children. One child care worker shall supervise the children who are in the water, and the other child care worker shall supervise children who are not in the water.

It is recommended that centers develop and implement a written policy to specify procedures for supervision of children while using public locker rooms and bathrooms.