

## 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 building inspection report that specifies that the building meets the applicable Wisconsin commercial building codes for use as a group child care center.

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

*Inspections can be obtained from a commercial building inspector certified by the Department of Safety and Professional Services (DSPS) in accordance with ch. SPS 305, "Licenses, Certifications, and Registration." A map of commercial building inspection districts and contact information can be found at <https://dsps.wi.gov/Documents/Programs/Maps/CommercialBuildings.pdf>.*

*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. 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. It is the applicant/licensee's responsibility to make arrangement for inspections and reports.*

*Licensees are encouraged to request the building inspector to inspect all potential classroom spaces to be able to care for the greatest age range of children possible. For example, in a center that intends to care for children 6 weeks to 12 years, it is recommended all classrooms be inspected to determine if children 6 weeks through 12 years could be cared for in those rooms.*

*It is also recommended that licensees ask the building inspector to identify the greatest number of children who could be cared for in the building, rather than telling the inspector how many children they will initially be requesting to be licensed for.*

*This served two purposes:*

- 1. It will allow the licensee greater flexibility for mixed-age grouping of children.*
- 2. It will alleviate the need for an additional building inspection in the future, should the licensee wish to change how they are using the space.*

*The applicant should contact 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](mailto: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 required in public school buildings serving children of any age under 4 years old.*

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

*Programs should consult with a commercial building inspector regarding kitchen venting requirements.*

*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. 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 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.*

*A program not previously licensed to care for children under age 2 ½ would like to modify their license to care for infants and toddlers.*

*A 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.*

*A 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.*

*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 an updated building inspection from a municipality 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, in addition to the approved building inspection, an occupancy permit demonstrating compliance with building and zoning codes may be required.*

(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, including, but not limited to:*

*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.*

*Parking lots used as outdoor play space may not be used as parking lots with moving vehicles while children are using the space.*

*Space allocated as self-contained classrooms or areas may not be used for meetings or other purposes by outside groups during hours of operation.*

*Bathrooms allocated for children's use during hours of operation may be used by children, including school children, and center personnel only.*

**251.06(1)(c) continued**

*School-age programs in school buildings where space may be used for other functions alternate space must be pre-approved by the Department and available for use during operation hours. 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 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 2018 IMC 309.1 Space-heating systems.*

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

*Caution should be exercised regarding fan placement to prevent lacerations and toppling hazards. Windows may be opened if there is sufficient breeze 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. Licensing staff will not conduct a detailed review of equipment and materials to determine whether items in the center have been recalled. Current recall information may be received at <https://www.cpsc.gov/recalls>.*

*"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.*

*Certain pull toys may have a cord or string the length of which may present a strangling hazard to a child. According to the Consumer Product Safety Commission, strings on pull toys should not be longer than 12 inches so that cords cannot be wrapped around necks. Strings or cords on window blinds must be short to prevent choking, must not hang in loops, and must be made inaccessible to children when blinds are raised.*

*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.*

*ASBESTOS: If there is suspicion of asbestos, providers should contact the Wisconsin Department of Health Services for asbestos treatment and abatement procedures. For more information, see <https://www.dhs.wisconsin.gov/asbestos/index.htm>.*

**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 Department of Health Services may be able to help find a consultant who specializes in building assessments to analyze the building and suggest remediation remedies. For more information, see <https://www.dhs.wisconsin.gov/mold/index.htm>.

**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 D Resources List: Common Plants – What’s Poisonous and What’s Not? Outdoor play spaces must be free of poisonous plants.

See DCF 251.06 (11) (b) 6. – CCA TREATED LUMBER and DCF 251.06 (11) (b) 6m. – CREOSOTE OR PCP TREATED WOOD.

**Note:** Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at [https://datcp.wi.gov/Pages/Programs\\_Services/ChildProductRecallsAdvice.aspx](https://datcp.wi.gov/Pages/Programs_Services/ChildProductRecallsAdvice.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, cleaning supplies, bleaches, and other hazardous, toxic, or poisonous articles shall be appropriately labeled and stored in areas inaccessible to children.

*It is recommended that child care programs operating in buildings used for other purposes where others may have access to the environment during non-licensed hours (school buildings, churches, etc.) have staff routinely check classrooms for materials harmful to children before children arrive.*

*Inaccessible is defined as unable to reach. 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 cans 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.*

**251.06(2)(d) continued**

*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 D Resources List: Common Plants – What's Poisonous and What's Not?*

(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 fire department, police department or other law enforcement agency, poison control center and emergency medical service in a location known to all providers. 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 as well.*

*A working telephone is defined as a phone that can make and receive 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. All center staff must have access to the designated phone and knowledge of the passcode, if applicable. 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.*

*It is recommended that emergency numbers be saved in the cell phone.*

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

(gm) The premises shall be well drained, free from litter, clean, and in good repair. The premises shall be maintained to prevent the entrance or harborage of vermin.

*"Well-drained" means no standing water; considerations may be given to the time of year and current weather conditions.*

*Vermin is defined as any of various insects, bugs, or disease carrying animals such as mice, rats, weasels, flies, or roaches. This list is illustrative and should not be considered all-inclusive.*

*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 animal droppings, and should be rodent proof.*

*"In good repair" means that there are no situations such as, but not limited to, broken windows, doors, door latches, steps and railings; torn linoleum or missing tiles; leaking roofs; holes in walls; or flooding or leaking basements.*

*Suspected infestations may require the services of a commercial pest control service. Proof of service may be documented by a 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.*

(h) Smoking is prohibited on the premises of the center or in a vehicle used to transport children when the children are in care.

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

*Use of vapes, electronic cigarettes or other smoking devices is prohibited on the premises when children are present.*

*When a child care center is 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.*

**Note:** See s. DCF 251.03 (25) for the definition of premises.

(i) 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.*

(im) No lead-based paint or other toxic finishing material may be used on indoor or outdoor furnishings and equipment.

*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 D Resources List: Guidance for Child Care Providers Regarding Lead-Based Paint Hazards in Child Care Settings.*

*When painted surfaces (built-ins, walls, ceilings, floors, stairs) are torn out or old paint is sanded, it is strongly recommended that abatement practices be initiated. When painted surfaces are peeling or deteriorating, samples of paint chips may be analyzed by the Laboratory of Hygiene in Madison or another certified laboratory.*

*For more information on asbestos or lead regulations, training, certification, work practices, inspections, or other related questions, please contact the Division of Public Health, Bureau of Environmental & Occupational Health, Asbestos And Lead Unit, phone: (608) 261-6876, fax: (608) 266-9711, email: [dhsasbestoslead@dhs.wisconsin.gov](mailto:dhsasbestoslead@dhs.wisconsin.gov), website: <https://www.dhs.wisconsin.gov/asbestos/overview.htm>.*

(j) Children may not be allowed in an area where power tools are in use.

(k) A hot tub located in a room or area accessible to children shall have a visible, locked, rigid cover or be enclosed by a locked fence at least 4 feet tall. The lock shall be installed so that the lock is inaccessible to children.

(L) If a hot tub is located in a room or area not intended for use by children, access to the room or area shall be controlled through the use of a visibly locked door. The lock shall be installed so that the lock is inaccessible to children.

(m) Cleaning aids such as mops and brooms shall be clean. Buckets used with mops shall be emptied and stored in areas inaccessible to children.



## 251.06(2)(n)

(n) 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 impervious to vermin. Metal containers are recommended.*

(o) 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.*

(p) 1. a. Each licensee shall test or have a test conducted for radon gas levels in the lowest level of the center that is used by children in care for at least 7 hours per week. The test shall be conducted for a minimum of 48 hours with the center's windows closed.

*Many group child care centers are located in commercial buildings. This means a building that is not a residential building and meets the definition of "place of employment" or a "public building" in s. 101.01(11) or 101.01(12), Wis. Stats. To test for radon in commercial buildings, it is recommended by the American Association of Radon Scientists and Technologists (AARST) standards to use a certified measurement professional who holds a certification from the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB). Testing a commercial building with a certified measurement professional can range from \$500 to \$1,500. The cost of testing may vary depending on the size of the facility. Test in lowest level of a building that is used by children in care for at least 7 hours per week. Best practices for testing for radon in schools and large buildings varies depending on the building. Use a certified measurement professional, or refer to the AARST standards for specific guidance here: <https://standards.aarst.org/MALB-2014/index.html>. If you choose to hire a certified radon professional to conduct the radon test in your center, it is recommended to follow all recommendations made by the certified radon professional. If your group child care center is operated in a residential building, see commentary under DCF 250.06(2)(n).*

*According to AARST standards, the number of tests recommended is based on the square footage and individual room requirements provided in the current radon measurement standards for schools and large buildings. 100% of the lower level and "ground contact" classrooms and common areas should be tested under the current standards of practice. At least 10% of the upper-level classrooms should also be tested under the current standards of practice. In larger common areas, such as a gym or a cafeteria, at least one sample will be taken per 2,000 square feet.*

*The best time to test is during the fall or winter months when the home or building is closed, and windows are not kept open. Radon levels will be the highest during these cold months. However, radon tests can be conducted any time of year if the windows and doors remain shut for 12 hours before and the entire duration of the test (minimum of 48 hours). Radon levels can go up and down due to weather patterns and home use like running HVAC, opening windows, and turning on fans. Avoid testing for radon during snow, rain, or windstorms as this can impact the test results and cause short term spikes/elevations in radon levels. It is recommended to test over a weekend so that the test is not disturbed.*

*Radon tests should be conducted in all dwellings and all nonresidential rooms that are occupied, or intended to be occupied, that have floors or walls in contact with the ground or are the lowest level of the building over a crawl space, utility tunnel, parking garage or other non-habitable space that is in contact with ground. For non-residential ground-contact locations, conduct a test in all ground-contact rooms, offices, classrooms, and other general use areas that are occupied or intended to be occupied. On each upper floor, test in at least one and not less than 10% of all dwellings and nonresidential rooms that are occupied or intended to be occupied. These measurements should be taken in addition to the tests performed in ground-contact locations and rooms. Unless for investigative purposes, do not test for radon in hallways, closets, bathroom, or shower areas unless they are open to other rooms that are occupied for other purposes.*

*If you care for children in a residential or commercial building that already has a radon mitigation system or a continuous radon detection monitor, it is still required to test the building for radon every 2 years (residential) or 5 years (commercial), or after any renovations are made on the home or building. This ensures that the mitigation system and/or radon detection monitor is properly installed and working. The only way to know if the building has high levels of radon is to test.*

*If you care for children in a school building that is currently in use as a school building, you are not required to test for radon.*

b. In a center licensed prior to the effective date of this subd. 1. [March 1, 2023], the test for radon gas levels shall be conducted no later than 6 months after the effective date of this subd. 1. [September 1, 2023].

c. In a center licensed on or after the effective date of this subd. 1. [March 1, 2023], the test for radon gas levels shall be conducted within 6 months prior to providing care for children.

2. The licensee shall submit a copy of the radon test results under subds. 1. and 5. To the department within 5 days after receipt.

3. The lowest level of a center that is used by children in care for at least 7 hours per week may not have radon gas levels that exceed 4 picocuries per liter of air, except as provided in subd. 4. b.

4. If the levels of radon gases exceed 4 picocuries per liter of air in the lowest level of the center, the licensee shall do all of the following:

*For the purposes of licensing, the overall average of the radon test is the measurement used to determine the threshold for mitigation.*

a. Notify the parents of children in care.

b. Have a radon mitigation system installed, test for radon gas levels following the procedures specified in subd. 1. a., and submit radon test results that meet the standards in subd. 3. to the department within 12 months after the date of the test under subd. 1.



**251.06(2)(p)4.b. continued**

*When mitigating a building for radon, the state of Wisconsin recommends using a certified measurement or mitigation professional who holds a certification from the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB). Certified contractors are more likely to understand best practices for radon mitigation. In the state of Wisconsin there are no laws requiring radon mitigation companies to be certified. This can result in uncertified and inexperienced contractors throughout the state offering low priced radon systems that are installed incorrectly, leaving the consumer at risk of paying for a poorly installed system that doesn't effectively remove radon. Using a certified contractor will reduce the risk of having a radon mitigation system installed incorrectly. A list of certified radon measurement and mitigation contractors can be found on the Department of Health Services' website here: <https://www.dhs.wisconsin.gov/radon/radon-proficiency.htm>.*

*Child care centers will not be required to close if radon test results exceed 4 picocuries per liter of air. Licensees will be required to follow all other requirements specified in subd. 4.*

*Radon Information Centers are located across the state and are available to providers as a resource. Find your local Radon Information Center here:  
<https://dhs.wisconsin.gov/radon/infocenters.htm>.*

5. a. In this subdivision, "commercial building" means a building that is not a residential building and that meets the definition of a "place of employment" or a "public building" in s. 101.01 (11) or (12), Stats.

b. In this subdivision, "residential building" means a building that meets the definition of a "dwelling" in s. 101.61 (1), Stats.

c. The licensee of a center in a commercial building shall test for radon gas levels every 5 years after the test under subd. 1. or, if a radon mitigation system was installed, every 5 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

d. The licensee of a center in a residential building shall test for radon gas levels every 2 years after the test under subd. 1. or, if a radon mitigation system was installed, every 2 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

**Note:** For more information, contact the state radon office or local radon information center at <https://www.dhs.wisconsin.gov/radon/infocenters.htm>.

**(3) EMERGENCY PLANS AND DRILLS.**

(a) Each center shall have a written plan for taking appropriate action in the event of an emergency, including fire, tornado, or flood; extreme heat or cold; loss of building services, including heat, water, electricity, or telephone; human- caused events, such as threats to the building or its occupants; allergic reactions; lost or missing children; vehicle accidents; or other circumstances requiring immediate attention. The plan shall include procedures for all of the following:

1. Evacuation, relocation, shelter-in-place, and lock-down.
2. Ensuring the needs of children under 2 years of age and children with disabilities are met.
3. Communication with parents.
4. Connecting children with their parents if the center is required to evacuate the building.

*The center emergency plan should address all the emergencies identified above 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; and identifying items that are recommended to be with the staff, such as attendance list, emergency cards, flashlight, and battery-operated radio, or cell phone. Information on developing emergency plans can be obtained from local fire departments, local emergency management, or on the Department's website at <https://dcf.wisconsin.gov>.*

*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.*

*Licensing specialists may ask centers to conduct a fire and/or tornado drill during a licensing visit.*

(b) Each center shall do all of the following:

1. Post the fire evacuation route and tornado shelter areas.

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

2. Practice the fire evacuation plan monthly, and tornado drills monthly from April through October.

*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 the 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.*

3. Ensure that all staff members know what their duties are if there is an emergency.

*Staff responsibilities during fire, tornado, and other emergencies should be defined in the emergency plans required under DCF 251.04 (2) (h) 9. 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.*

**251.06(3)(b)4.**

4. Keep a written record of dates and times all fire and tornado drills practiced.

*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.*

**Note:** The licensee may use the department's form *Safety and Emergency Response Documentation - Group Child Care Centers*, to document the results of the monthly testing of fire alarms and smoke detectors. Forms are available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

**(4) FIRE PROTECTION.**

- (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.*

*BEEPING OR CHIRPING ALARMS: If a smoke detector beeps or sounds another type of signal indicating a potential malfunction, the detector must be replaced or repaired and is not considered in operating condition at that time.*

- (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.

*Marked exits that require more than a one-hand, one-motion are considered an obstructed exit.*

- (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.*

*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.*

*"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.*

*Not all power strips are UL listed surge suppression devices.*

*Extension cords and surge suppression devices must be listed by UL or another approved nationally recognized testing agency; may not be used with large appliances, such as full-size refrigerators; 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) 1. Fire detection and prevention systems, including smoke detectors, heat or flame detectors, pull stations, and sprinkler systems shall be installed and operated in accordance with ch. SPS 316 and chs. SPS 361 to 366, the Wisconsin Commercial Building Code; applicable local ordinances; and the manufacturer's instructions.

2. All fire detection and prevention systems, including smoke detectors, heat or flame detectors, pull stations, and sprinkler systems shall be maintained in operating condition and shall be immediately repaired or replaced if any unit or part of a unit is found to be inoperative.

(jm) 1. A signaling device, such as a smoke, heat, or flame detector, shall be used to conduct monthly fire evacuation drills.

2. The licensee shall document that the fire detection and prevention systems are monitored by a fire prevention agency or that the detectors and alarms have been tested monthly.

**Note:** The licensee may use the department's form, DCF-F-CFS0543, Safety and Emergency Response Documentation – Group Child Care Centers, to document the results of the monthly testing of fire alarms and smoke detectors. The form is available at <https://dcf.wisconsin.gov/cclicensing/ccformspubs>.

*When a building has sprinklers, there may or may not be pull stations or individual alarms in the building. Fire detection and prevention 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.*

*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.*

**251.06(4)(jm)2. Note: continued**

*It is recommended that if there is no audible alarm present in the building, a battery-operated smoke detector or similar device 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 (5m) (a) 7. – SCHOOL-AGE RULE EXEMPTIONS – TESTING ALARMS IN SCHOOL BUILDINGS.*

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

*If there are concerns regarding the installation of vented gas, oil, or kerosene space heaters, providers may be asked to obtain written documentation that it was properly installed.*

*Electric space heaters should have an automatic shut off.*

*Flammable materials should be kept away from space heaters.*

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

**(6) WATER.**

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

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

*Reusable water bottles are an acceptable alternative. We highly recommend labeling bottles with the child's name. It is also recommended that single-use water bottles not be reused.*

*If a building is closed and unused for an extended period (i.e., one week or longer), the Environmental Protection Agency (EPA) recommends flushing the building's plumbing before reopening. Flushing involves opening taps and letting the water run to remove stagnant water from the interior pipes. More information can be found at <https://www.epa.gov/>.*

*Some municipalities may have differing recommendations based on the period the building was closed. It is recommended that you contact your local municipality to check recommendations.*

*It is recommended that any drinking or cooking water outlets are flushed for at least 30 seconds before use. Water fountains with a refrigeration cooler are recommended to be flushed for at least 15 minutes.*

*Flushing water systems can increase the amount of debris found in faucet aerators. It is recommended to remove and clean aerators after flushing water systems.*

(b) If a center gets its water from a private well, the center shall comply with all of the following:

1. a. The center shall have water samples from the well tested for total coliform and Escherichia coli (E. coli) bacteria annually using a laboratory certified by the department of agriculture, trade and consumer protection as specified in ch. ATCP 77. The laboratory report shall be available to the department upon request.

b. If the water test results indicate the presence of total coliform or E. coli bacteria, the water system shall be appropriately disinfected or treated and retested until it is determined to be free of bacteria. An alternative source of water shall be used for drinking and preparing food or infant formula until the well is free from bacteria.

## 251.06(6)(b)1.b. Note 1:

**Note 1:** A list of laboratories certified to test for bacteria can be found on the Department of Natural Resources website: [www.dnr.wi.gov](http://www.dnr.wi.gov).

**Note 2:** Alternative sources of drinking water can include bottled water and water from a public water system that meets drinking water standards.

*Total coliform and E. coli tests are sometimes run concurrently. If the sample test is negative for total coliform, the sample is also negative for E. coli.*

2. a. The center shall have water samples from the well tested for nitrate annually using a laboratory certified under ch. NR 149. The laboratory report shall be available to the department upon request.

b. If water test results indicate nitrate levels are above 10 mg/L, an alternative source of water shall be used for drinking and preparing food or infant formula until nitrate levels are below 10 mg/L.

**Note 1:** A list of laboratories certified to test for nitrate can be found on DNR's website: [www.dnr.wi.gov](http://www.dnr.wi.gov).

**Note 2:** Alternative sources of drinking water include bottled water, water that has been treated with a device certified by the department of safety and professional services to remove nitrate, and water from a public water system that meets drinking water standards.

3. a. The center shall have the well tested for lead every 5 years using a laboratory certified by the department of natural resources under ch. NR 149. The laboratory report shall be available to the department upon request.

b. If water test results indicate lead levels are above 15 micrograms per liter (µg/L), an alternative source of water shall be used for drinking and preparing food or infant formula until action is taken to reduce lead levels below 15 µg/L as confirmed by an additional water test.

**Note 1:** A list of laboratories certified to test for lead can be found on DNR's website: [www.dnr.wi.gov](http://www.dnr.wi.gov).

**Note 2:** Alternative sources of drinking water include, but are not limited to, bottled water and water from a source known to be low in lead, such as a public water system that meets drinking water standards.

*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 positive or has high lead levels, it must be treated and retested.*

*If water is bacteriologically positive, 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 <https://dnr.wisconsin.gov/topic/DrinkingWater>.*

### (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.



## 251.06(7)(a) continued

**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 ( $L \times W$ ) formula. Inches will be converted to a decimal for ease of multiplication. If the space to be measured does not easily adapt to  $L \times W$  formula, the space should be broken down into more easily defined squares and rectangles. Triangle-shaped spaces can be calculated using a  $1/2L \times W$  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.

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.

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:

- Amount of square footage of self-contained rooms or areas used by the children
- Number of toilets and washbasins available to children [See DCF 251.06 (10) (a)]
- Staff-to-child ratio and maximum group size [See DCF 251.055 (2) (a) and (b)]
- Amount of equipment present [See DCF 251.07 (3) (c)]
- Number of cots, mats, or sleeping bags available, if applicable [See DCF 251.07 (4) (c)]
- 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)]
- Square footage of outdoor play space unless an exemption has been requested and approval given [See DCF 251.06 (11) (b)]
- Storage space for children's clothing and personal belongings so that each child in the licensed capacity has a storage space [See DCF 251.07 (3) (h)]
- The qualification of the directors [See DCF 251.05 (3) (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 manager.*

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

**(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 D Resources List: Cleaning, Sanitizing and Disinfecting in Child Care Centers.*

*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.*

**(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 using a product that is registered with the U.S. environmental protection agency as a sanitizer and has instructions for use as a sanitizer on the label. The sanitizer shall be used in a manner consistent with the label instructions.

*See Appendix D 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.

**251.06(9)(b)4.b. continued**

*Dishes washed in a commercial dishwasher are sanitized using a chemical sanitizer in the rinse cycle or by heat. In these instances, if a chemical sanitizer is used, the 180-degree Fahrenheit sanitizing cycle is not required.*

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 by using a product that is registered with the U.S. environmental protection agency as a sanitizer and has instructions for use as a sanitizer on the label. The sanitizer shall be used in a manner consistent with the label instructions.

*Sani-cycles may not substitute for the requirement for sanitizing dishes unless the center can document that the hot water (Sani-cycle) booster with the home-type dishwasher can raise the temperature of the rinse water to 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.

(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.

*Meat and poultry must be processed in a facility inspected by the USDA or the state.*

*Home-frozen foods are acceptable.*

*Home-canned foods may not be used for children in care except for high-acid foods including apples, apricots, berries, cherries, grapefruit, peaches, pineapple, rhubarb, and tomatoes.*

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

*Food served from a single-use container may not be saved for later consumption.*

*See Appendix D Resources List: Food Storage Chart.*

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 ATP 75, subch. III addresses restaurants and other public eating establishments. Chapter ATP 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 might 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](http://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 140°F. or above, as appropriate, except during necessary periods of preparation and service.

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.*

*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.

(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.

**251.06(9)(f)3.**

3. Food that was prepared but not served shall be dated, refrigerated promptly, and used within 36 hours, or frozen immediately for use within 6 months.

*See Appendix D Resources List: Food Storage Chart for more information.*

*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 140°F.

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.*

*See Appendix D Resources List: Food Storage Chart.*

(g) Meal preparation personnel.

1. Personnel who help prepare meals shall:

b. Wear clean clothing and effective hair restraints such as hair nets or caps.

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

c. Wash their hands with soap and warm running water before starting work, before and after handling food, and after using the toilet. Hands shall be dried with single use towels.

*Individual cloth towels shall only be used once and then must be laundered.*

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.

*Sinks must have plumbing. If a center would like to use a portable sink, they must receive a variance from their local building inspector.*

| <b>TABLE 251.06</b>  |                          |                             |
|--|--------------------------|-----------------------------|
| <b>Minimum Number of Washbasins and Toilets<br/>Required in Group Child Care Centers</b> |                          |                             |
| <b>Maximum Number of Children for<br/>Which the Center is Licensed</b>                   | <b>Number of Toilets</b> | <b>Number of Washbasins</b> |
| 9 or 10  | 1                        | 1                           |
| 11 to 25   | 2                        | 1                           |
| 26 to 40   | 3                        | 2                           |
| 41 to 55   | 4                        | 2                           |
| 56 to 70   | 5                        | 3                           |

(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.

(dm) 1. Toilet rooms and fixtures shall be in a sanitary condition at all times.

2. Potty chair receptacles shall be emptied and rinsed after use and the potty chair and receptacle shall be disinfected immediately using a product registered with the U.S. environmental protection agency as a disinfectant that has instructions for use as a disinfectant on the label. The disinfectant shall be used according to label instructions.

(e) Steps or blocks shall be provided if 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.

*Liquid soap that is not labeled "keep out of reach of children" is recommended. See DCF 251.07 (6) (i) 3. – CONDITION & SHARING OF PERSONAL CARE ITEMS.*

(g) Toilet room door locks shall be openable from the outside and the opening device shall be readily accessible to the staff.

*Tape may not be used to keep a lock open.*

*The phrase "toilet room door locks" refers to the outside exit toilet room door. Individual stalls should have crawl space underneath the door.*

(h) The hot water temperature may not exceed 120 degrees Fahrenheit for sinks, showers, or bathtubs used by or accessible to children in care.

**(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.

*Three hours means three consecutive hours of operation with the same children in care.*

*Part-day preschools, nursery schools, and school-age programs are not required to have outdoor play space if each session is 3 hours or less in length. If a part-day program chooses to provide an outdoor play experience, all the requirements of this section must be met.*

(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.



**251.06(11)(b)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 whenever the play equipment is 4 feet or more in height and in a fall zone of 4 feet beyond the equipment. Shredded rubber and poured surfacing shall be installed to the manufacturer's specifications based on the height of the equipment.

*ENERGY-ABSORBING SURFACES: A loose 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.*

6. 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 at least every 2 years.

*If your wood structure was built before 2004 and is not made of cedar or redwood, it was most likely constructed with CCA-treated lumber. If you are unsure if the structure is CCA-treated lumber, it is recommended to stain the structure.*

*It is recommended that providers document in their center records when the structure was sealed.*

*See Appendix D Resources List: What You Should Know About CCA-Pressure Treated Wood for Decks, Playgrounds, and Picnic Tables.*

6m. Wood containing creosote or pentachlorophenol (PCP), including railroad ties, may not be accessible to children.

*Wood treated with the oil-based products creosote and pentachlorophenol (PCP) can also be toxic. These chemicals are typically found in railroad ties and utility poles. Structures made with these materials cannot be adequately sealed and will be considered a hazard. Children should not be permitted to come in contact with wood treated with either of these products.*

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. The permanent enclosure may not have any open areas that are greater than 4 inches.

*The 4-foot minimum height requirement must be maintained. A fence or other permanent enclosure that has settled over time and is no longer a minimum of 4-feet in height must be repaired to meet the 4-foot requirement, as measured from inside the enclosure. Materials added to the ground on the inside of the fence may affect the 4-foot minimum height requirement by decreasing the height of the fence. The Department recommends a fence higher than 4-feet due to settlement during Wisconsin weather.*

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](http://www.cpsc.gov) or 1-800-638-2772.

(bm) *Equipment.* Outdoor equipment shall be safe and durable. The outdoor equipment shall be all of the following:

1. Used in accordance with all manufacturer's instructions and any manufacturer's recommendations that may affect the safety of children in care.

*It is recommended that the licensee maintain manufacturer's instruction regarding the equipment.*

2. Scaled to the developmental level, size, and ability of the children.

3. Of sturdy construction with no sharp, rough, loose, protruding, pinching, or pointed edges, or areas of entrapment, in good operating condition, and anchored when necessary.

4. Placed to avoid danger of injury or collision and to permit freedom of action.

(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.

*If on-premises play space is available, an exemption to use off-premises play space will not be approved.*

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 251.055.

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.

**251.06(11)(c)4.**

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.

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) 1. Aboveground and in-ground swimming pools on the premises may not be used by children in care.

2. Swimming pools shall be enclosed by a 4-foot fence with a self-closing, self-latching door. Spaces between the vertical posts of the fence shall be 4 inches or less.

*"Self-closing" means that the door is weighted so that it will close and latch on its own without assistance.*

*A swimming pool located in a self-containing room with four walls and a latching door will not need a 4-foot fence.*

3. If access to the pool is through a gate, the gate shall be closed and visibly locked during the licensed hours of the center.

4. If access to the pool is through a door, the door shall be closed, visibly locked, and equipped with an alarm at the door that signals when someone has entered the pool area. The door may not be used as an exit.

5. Locks shall be located so that the locks cannot be opened by children.

6. The free-standing wall of an aboveground pool may not serve as an enclosure unless it is at least 4 feet in height and not climbable. If a ladder is present, the ladder shall be removed or raised up so that it is inaccessible to children.

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

*To adequately protect children when a pool is on the child care center premises, the following steps must be taken:*

- If access to the pool is through a gate, the gate must be closed and visibly locked during the licensed hours of the center.*

- 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.
- Locks shall be located so that the locks cannot be opened by the children. Floating pool alarm devices are not acceptable in place of the above protections because they only work AFTER a disturbance to the pool's surface.

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.

An exception 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 manager/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.

The free-standing wall of an above-ground pool may not serve as an enclosure unless it is 4 feet in height and not climbable. 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. If a ladder is present, the ladder must be removed or raised up so that it is inaccessible to the children.

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.

(am) A beach on the premises may not be used by children in care. Access to a beach shall be controlled so that children may not enter the area.

(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 251.055 (1) and (2) 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, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, in the collaborative book Caring for Our Children: National Health and Safety Performance Standards, Guidelines for Early Care and Education Programs, state that the use of wading pools for children is not recommended. Standing water is a breeding source of bacteria and disease-carrying insects. 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:

## 251.06(12)(c) continued

ATCP 76.04 (53) "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 except wading pools.

"Water attraction" 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.

*Lifeguards are required when children are in the water. Lifeguards may not be counted in the staff-to-child ratio.*

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 251.055 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 department's website, <http://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.

*Swimming ability may be determined by the parents or the center.*

*The center should be able to demonstrate to the licensing specialist how they have assessed the child's swimming ability.*

*The American Red Cross recommends assessing the following skills to determine swimming ability:*

- Enter the water that is over the individual's head, then return to the surface.
- Float or tread water for at least 1 minute.
- Turn over and turn around in the water.
- Swim at least 25 yards.
- Exit the water.

*More water safety tips and resources can be found on the American Red Cross' website here: <https://www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/water-safety.html>.*

**251.06(12)(c)6.**

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.*