

**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 Commerce in accordance with ch. Comm 5, "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.

*BUILDING INSPECTIONS: 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 – Child Care Centers form or a letter from a registered architect or engineer or from a commercial building inspector certified by 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 Commerce (DOC) to determine if plan submittal is necessary prior to requesting an inspection or engaging in any building renovations. Contact the DOC Plan Review office at [www.commerce.state.wi.us/SB/SB-DivPlanReview.html](http://www.commerce.state.wi.us/SB/SB-DivPlanReview.html) or (608) 266-1018.*

*In order to have a building inspected to determine if any modifications are necessary to meet the applicable building codes (there may be a fee involved in obtaining an inspection), the applicant or licensee should contact one of the following:*

- 1. Certified building inspectors from a city certified by the state to do commercial building inspections (contact your local city building inspection unit to see if the city inspector is certified to do inspections for commercial buildings).*
- 2. A Wisconsin registered architect or engineer (registered in accordance with Wisconsin Administrative rules A-E for Architects and A-E 4 for Engineers).*
- 3. A commercial building inspector certified by the Department of Commerce in accordance with Comm 5, Credentialing Code, to do commercial building inspections. Individuals falling into this category might be self-employed, employed by a municipality that is not on the list of certified cities or employed by a private independent inspection firm. See "Building Inspection Services" in most telephone directory yellow pages.*

*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 where served in a school that also has a 4 year old kindergarten*

*ISSUING A NEW LICENSE FOR 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 chapter of the Commercial Building Codes that may provide guidance on change of use situations can be found in the International Existing Building Code (IEBC) with the Department of Commerce.*

**251.06(1)(a)Note: continued**

*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.*

- 1. Program not previously licensed to care for children under age 2 ½ would like to modify their license to care for infants and toddlers.*
- 2. 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.*
- 3. 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, building), plans may need to be submitted to the Department of Commerce 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 may not be issued until compliance with the Commercial Building Codes is verified by documentation from a municipality (an occupancy permit) or an architect, engineer or Dept. of Commerce certified commercial building inspector.*

*FOR CONSTRUCTION OF NEW BUILDINGS TO BE USED AS CHILD CARE CENTERS, THE FOLLOWING PROCEDURES APPLY: A plans approval application (SB-1 & 8) with instructions for plans approval must be obtained from and submitted to a Department of Commerce plan reviewer with appropriate fees. Certified cities are authorized by COMM 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 Department of Commerce website for information about plan reviews <http://www.commerce.state.wi.us/SB/SB-DivPlanReview.html>.*

*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 Commerce 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.

*SOLE-USE SPACE: 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.*

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

*A minimum temperature of 67° Fahrenheit is determined by a thermostat reading. In rooms without thermostats, 67° Fahrenheit is determined as follows:*

1. *Room without windows: Temperature taken in center of a room.*
2. *Room with windows: Temperature taken one foot away from windows and at the center of the room and then averaged.*
3. *Series of rooms with only one thermostat: The coldest room must comply with the 67° F minimum. Temperatures are to be measured at 24" above the floor level.*
4. *Infant and Toddler Rooms: Measure 6 inches above the floor.*

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

*Examples of "other means" are air conditioning, fans or other mechanical means.*

**(2) PROTECTIVE MEASURES.**

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

*POISONOUS PLANTS: See Appendix J Resource List for instructions on obtaining a brochure from the UW Hospital Poison Control Center that can be used to help determine which common plants are poisonous. The Poison Control Center's 24-hour emergency phone number is 1-800-222-1222.*

*RADON: Radon testing is not required.*

**Note:** Lists of recalled products are available on the department of agriculture, trade and consumer protection website at <http://datcp.state.wi.us/core/consumerprotection/consumerprotection.jsp> 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.

(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.

(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 street address for the center should be posted near the telephone, and it is recommended that the phone number for the local child protective services agency be listed near the phone as well. The statewide toll-free number for poison control is 1-800-222-1222.*

*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.*

**251.06(2)(f) continued**

*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 an readily visible area and on the phone back. 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.*

*Centers are not required to answer phone calls received during child care hours, but they must specify the procedure for receiving information from parents if they use an answering machine or voice mail service.*

(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.

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

*If a child care center is located in a building with other occupants, the other occupants or other persons may not smoke in rooms or areas identified as the premises of the child care center. If certain halls or passageways are used in common with other occupants of the building, smoking may not occur in these common use areas.*

*See DCF 251.08(2)(c) SMOKING IN VEHICLE.*

(i) A licensee, employee, volunteer or other individual in contact with children may not consume alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., on the premises of the center or be under the influence of any alcohol or non-prescribed controlled substance, during the hours of the center's operation.

*CONTROLLED SUBSTANCES: 961.01(4), Wis. Stats., defines "controlled substance" as a drug, substance or immediate precursor in schedules I through V of Subchapter II. Broadly, this covers marijuana, narcotic drugs, opium and opiates, opium poppy and poppy straw. For definitions of terms and a list of pharmaceuticals which are specifically controlled, see Chapter 961, Wis. Stats.*

(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.

**(3) EMERGENCIES.** Each center shall have a written plan for responding to a fire, a tornado, a tornado warning, a missing child or other emergency. A center shall do all of the following:

*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; address exiting on all levels used by children in care; and identify items that are recommended to be with the staff—such as attendance list, emergency cards, flashlight, battery-operated radio or cell phone. The plan should also address providing for the evacuation of children with special needs who may require additional assistance during an evacuation and an off-site evacuation and relocation site including a plan for family notification and reunification of children with their parents. Information on developing emergency plans can be obtained from local fire Departments, local emergency management or the Child Care Information Center at <http://www.dpi.state.wi.us/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*

*Licensing staff may ask centers to conduct a fire or tornado drill during a site visit. Fire departments are required under section COMM 14.01(11)(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) 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.

*The evacuation diagrams (fire and tornado) shall 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 must be used. Other types of manual signaling devices may not be used since children must become accustomed to responding to the sound that would 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 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.*

*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. Source: Division of Emergency Management 1- 800-943-0003.*

(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)6. 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.*

(c) Keep a written record of dates and times of 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.*

**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.

**RECOMMENDED EVACUATION PRACTICES:** *Children shall not take the time to put on their coats before evacuating a building. During winter or inclement weather, evacuation drills may stop at the outside exit door of the building so that children are not exposed to inclement temperatures. The recommended goal for exiting time is less than 2 minutes.*

*Both fire and tornado evacuations should be practiced on a varied schedule developed by the center. See DCF 251.10(4)(c) NIGHT CARE – FIRE EVACUATION DRILLS.*

#### (4) FIRE PROTECTION.

*Fire departments are required under section COMM 14.01(11)(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.*

**251.06(4)(b)**

(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.*

*“Re-locatable power taps” (e.g., surge protectors, circuit breaker bars) means a cord set 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. Re-locatable power taps may be used, but they are permitted only with portable electronic equipment such as audio-visual equipment, computers and peripheral equipment.*

*Extension cords and re-locatable power taps must be listed by UL or another approved nationally recognized testing agency; 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 regarding circuit breaker bars and surge protector power strips.*

(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>, 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.*

*If the building has smoke detectors or individual alarm stations, those smoke detectors or alarm stations must be tested weekly to determine operating condition and used during fire drills.*

*The fire evacuation drill can be considered one of the weekly tests of the smoke detection system provided the building system is used to sound the alert. The remaining weekly tests of the fire alarm system do not need to be conducted when children are on the premises.*

*ALARM TESTING: 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 hookup to a local fire station or other monitoring service.*

*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.*

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

*Vented gas, oil or kerosene space heaters 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.*

*Pellet stoves or other stoves that use alternative fuels may be used if they are installed according the manufacturer's recommendation. An inspection is not required.*

*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.

*Prior to scraping paint from buildings or equipment built prior to 1980, the paint should be tested for lead after consulting your local health Department. Testing is the responsibility of the licensee.*

*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 through removing old paint by scraping, sanding or heat and by repainting. Repair by a certified lead paint removal contractor is recommended.*

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

*For more information on asbestos or lead regulations, training, certification, work practices, or inspections, please use the following contact information. Division of Public Health, Bureau of Environmental & Occupational Health, Asbestos and Lead Unit, P.O. Box 2659, Madison WI 53701, Phone: (608) 261-6876, Fax: (608) 266-9711, Email: [plicasbestoslead@dhfs.state.wi.us](mailto:plicasbestoslead@dhfs.state.wi.us)*

(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.*

*Use of spray disinfectants on garbage containers in the building is not recommended due to the potential for irritation to mucous membranes in young children.*

**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 such as Clorox cleanup used on tabletops must be used two times—the first to clean the surface and the second to sanitize the surface.*

(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.

*To obtain information about Infection Control Measures, see Appendix J Resource List.*

(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 <http://www.datcp.state.wi.us/core/insectpesticides/insectpesticides.jsp> 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.

*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 annual water test and making the report available. Instructions for taking samples may be obtained from: Director, Wisconsin State Laboratory of Hygiene, 465 Henry Mall, Madison WI 53706, Phone: (608)262-1293.*

1. Water samples from the well shall be tested annually for lead and bacteria by a laboratory certified under ch. DHS 165. The laboratory report shall be available to the department upon request.

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

**Note:** Section NR 890.09 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.

*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. Use of bottled water is only a temporary allowance.*

*The local health department may determine alternative procedures to be followed.*

**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](http://www.dnr.state.wi.us/org/caer/cs/ServiceCenter/SSbyRegion.html)

**(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 of "Self-contained room or area" and DCF 251.03(12) definition of "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 of .5 or higher, the number of children to be accommodated in that space should be rounded up 1 additional child. 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 – 6 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 reduced or increased based on a recalculation of available space.*

**251.06(7)(a) continued**

*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.*

*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 COMM 21.19 Floor Design.*

*Railings are required when the differences in elevation exceed 18 inches. Differences in elevation can occur inside or outside.*

*If it is a commercially manufactured piece that meets ASTM (American Society for Testing Materials) standards as proven by documentation regarding height requirements, we would accept without an exception. If it does not meet the ASTM standards, then you must meet rule requirements.*

*Lofts that are free standing and not connected or attached to the building are considered to be play equipment and may not be counted as additional usable space when determining capacity of a center.*

*Centers where loft space was included in determining licensed capacity prior to August 1, 1997, will be allowed to remain at the current capacity, unless the center is sold to a new licensee. At the time the change in ownership occurs, a loft may be counted in available space only if the lot has been inspected and approved by a certified building inspector under COMM 21.19 Floor Design.*

*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.*

*When lunches are served in a separate room used expressly for serving meals, the size of chairs and tables is frequently not at the proper height and size for children's reach. An exception may be granted to the height of the chairs and table.*

(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.

*A wide variety of storage space is acceptable (hooks, hangers, lockers, etc). Storage space for personal belongings may be provided through shoeboxes, chip containers, cubbies, plastic containers, laundry baskets, etc.*

(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.

**(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.

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.

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.c.**

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 domestic dishwasher can raise the temperature of the rinse water to a temperature of no less than 180° Fahrenheit.*

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.

*See Appendix J Resource List for instructions on obtaining a list of approved sanitizers.*

(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 by exception with parental and food program permission.*

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 DHS 196 addresses restaurants and other public eating establishments. Chapter ATCP 75 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, catering agencies, 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. If a catering service is used, the meals must be prepared on the premises of the licensed catering agency.*

*Food that is transported from one location to another must be transported in ways that will protect the food from spoilage or contamination. Food transportation containers must be capable of maintaining hot food at 150° Fahrenheit or more and cold food at 40° Fahrenheit or less. All food transported must be covered securely to prevent spilling and the vehicle must be clean.*

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.

**251.06(9)(d)1.b.**

- 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.

*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.

*Commercially-prepared, ready-to-serve opened food items can be retained up to seven days after they are opened when they are properly stored or refrigerated.*

- 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.
- 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.

*The definition of 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.

**251.06(9)(g)1.c.**

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 can 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.

*The maximum hot water temperature should not exceed 120° F. and a temperature between 100 and 105° F. is recommended. Scald prevention devices are recommended.*

**TABLE 251.06**  
**Minimum Number of Washbasins and Toilets**  
**Required in Group Child Care Centers**

Maximum Number of Children for Which the Center is Licensed	Number of Toilets	Number of Washbasins
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.

(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.

*Liquid soap 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. If stalls are constructed according to code, the stall doors should have crawl space underneath.*

**(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.

*Part-time preschools, nursery schools and school-age programs with sessions scheduled to last at least 3 hours must meet the requirements in this section. Three hours means three consecutive hours of operation with the same children in care.*

(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, including 4-year old kindergarten (4K) programs do not need 9 inches of energy absorbing material under and around the playground equipment if the children attend that school on a regular basis for school.*

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 in an outdoor play area 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 in outdoor play area, holes, fences or enclosures with 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 Commerce inspector or designated certified 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.

*Centers licensed prior to January 1, 2009, must install a permanent enclosure no later than January 1, 2010.*

**251.06(11)(b)7. continued**

*School age programs, including 4-year old kindergarten (4K) programs, are exempt from the requirement for a permanent enclosure under DCF 251.095(2)(c) if the children attend that school on a regular basis for school.*

*See DCF 251.06(12)(a) ON PREMISES SWIMMING POOL OR BEACH – USE & ENCLOSURE; 251.06(12)(b) WADING POOL; 251.06(2)(k) HOT TUB – COVERED OR FENCED; 251.06(2)(L) HOT TUB – VISIBLY LOCKED DOOR and 251.03(30) definition of “Supervision of children.”*

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 such as a poured surface or rubber mat.*

**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.

(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.

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) for the definition of "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.*

**251.06(12)(c)**

(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) "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. This does not include splash pads.*

1. The construction and operation of the pool shall meet the requirements of chs. Comm 90 and DHS 172 for public swimming pools. A beach shall comply with any applicable local ordinance.
2. Certified lifesaving personnel shall be on duty.

*Center may provide a certified 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 regular staff-to-child ratios should 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.

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 parent or the center.*

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.