142H.34 FACILITY.

Subdivision 1. **Occupancy designation.** (a) At initial licensure, an applicant must demonstrate compliance with the standards specified by the State Building Code and any applicable local building ordinances.

(b) Prior to the child care facility being remodeled, substantially improved, renovated, or reconstructed, the license holder must verify whether approval from the applicable state or local building officials is needed. If needed, the license holder must obtain written verification of compliance with the State Building Code and any applicable local building ordinances.

Subd. 2. **Fire inspection.** (a) The center must be inspected by a fire marshal within 12 months prior to initial licensure. The commissioner must not grant an initial license until receiving written approval of compliance with the State Fire Code from the fire marshal with jurisdiction.

(b) Pursuant to the time frames in paragraph (d), the center must have a fire inspection at least once every five calendar years from the date of the last fire inspection report. The fire inspection must include written approval of compliance with the State Fire Code from the fire marshal with jurisdiction.

(c) Prior to the use of any areas of the structure not previously inspected and approved for child care use, the center must:

(1) receive written confirmation from the state fire marshal that approval from the state fire marshal is not needed; or

(2) conduct a fire inspection, which must include written approval of compliance with the State Fire Code from the fire marshal with jurisdiction.

(d) For centers holding a valid license as of July 1, 2029:

(1) centers initially licensed before January 1, 1998, must meet the requirement under paragraph (b) no later than July 1, 2029;

(2) centers initially licensed on or after January 1, 1998, but before January 1, 2013, must meet the requirement under paragraph (b) no later than July 1, 2030;

(3) centers initially licensed on or after January 1, 2013, but before January 1, 2021, must meet the requirement under paragraph (b) no later than July 1, 2031; and

(4) centers initially licensed on or after January 1, 2021, must meet the requirement under paragraph (b) no later than July 1, 2032.

(e) Centers that have already completed a fire inspection within five years of July 1, 2029, are exempt from paragraph (d).

Subd. 3. **Reinspection for cause.** If the commissioner has reasonable cause to believe that a potential hazard exists or the license holder is operating out of compliance with applicable codes, the commissioner may request another inspection and written report by a fire marshal, building official, or health authority.

Subd. 4. **Facility floor plan and designated areas.** (a) Indoor and outdoor space to be used for child care must be designated on a facility floor plan.

(b) Space designated on a facility floor plan must be exclusively used for child care by the center during the hours of operation.

(c) The initial application for licensure and the center's administrative record must contain a floor plan of the center. Precise scale drawings are not required. The plan must indicate:

(1) the dimensions and location of all areas of the center designated for the provision of child care including planned use of each area; and

(2) the size and location of areas used for outdoor activity.

Subd. 5. **Child's personal storage space.** A center must have storage space for each child's clothing and personal belongings. The space must be at a height appropriate for the age of the child.

Subd. 6. **Space for children who become sick.** (a) Space must be provided in the center for a child who becomes sick at a center not licensed to operate a sick care program under section 142H.19.

(b) The space must be separate from activity areas used by other children but may still be within the classroom.

(c) A cot, mat, or crib and blanket must be provided as appropriate to the developmental level of the child.

(d) The space must be supervised by a program staff person when occupied by a sick child.

Subd. 7. **Outdoor learning environment and play space.** (a) A center must provide or have available an outdoor activity area that complies with this subdivision unless licensed to exclusively provide night care as specified under section 142H.16, licensed to provide drop-in care as specified under section 142H.17, licensed to provide sick care as specified under section 142H.19, or operating for fewer than three hours a day.

(b) A center must have an outdoor activity area of at least 1,500 square feet, and there must be at least 75 square feet of space per child within the outdoor play area at any given time during use.

(c) The outdoor activity area must be enclosed if it is located adjacent to a hazard, including but not limited to traffic, rail, water, or machinery, unless the area is a public park or playground.

(d) An outdoor activity area used daily by children under school age must be within 2,000 feet of the center or transportation must be provided by the license holder. The outdoor activity area must not be farther than one-half mile from the center.

(e) The area must contain the outdoor equipment required under section 142H.14.

(f) The play area must be free of potential hazards, including but not limited to broken glass, toxic materials, machinery, unlocked vehicles, feces, and sewage contaminants.

(g) An energy-absorbing surface is required under installed climbing equipment, swings, and slides. An energy-absorbing surface can be loose sand, pea gravel, or mulch in a depth of at least nine inches; any material that meets ASTM F1292 specifications; or shredded rubber and poured energy-absorbing surfacing installed to manufacturer's specifications based on the height of the equipment. A fall zone is required around the equipment.

(h) Natural features used for outdoor play that are not installed as equipment are not subject to the requirements of paragraph (g). When a child uses natural features for outdoor play, a program staff person must remove hazardous objects as specified in subdivision 17 and mitigate hazards whenever possible from

the surrounding area where children might fall. Natural features used for outdoor play must be appropriate to the age and size of children, in safe condition, and used under the supervision of a program staff person.

Subd. 8. **Indoor space.** A center must have a minimum of 35 square feet of indoor space available per child in attendance. Hallways, stairways, closets, utility rooms, restrooms, kitchens, and space occupied by cribs are not indoor space for the purposes of this subdivision. Twenty-five percent of the space occupied by furniture or equipment used by staff or children may be counted as indoor space.

Subd. 9. **Shielding of hot surfaces.** Heating appliances must be installed and maintained in accordance with the manufacturer's instruction and the State Building Code. Radiators, fireplaces, hot pipes, and other hot surfaces in areas used by children must be shielded or insulated to prevent burns.

Subd. 10. **Electrical outlets.** Except in a center that serves only school-age children, electrical outlets must be tamper proof or shielded when not in use.

Subd. 11. **Water hazards.** Bodies of water within or adjacent to the center must be inaccessible to children. When using a pool or beach, children must be supervised at all times.

Subd. 12. **Room temperature.** An indoor temperature of 68 degrees Fahrenheit to 82 degrees Fahrenheit must be maintained in all rooms used by children.

Subd. 13. **Hazardous areas.** Kitchens, stairs, and other hazardous areas must be inaccessible to children except during periods of supervised use.

Subd. 14. **Fire extinguisher inspection.** Fire extinguishers must be serviced by a qualified inspector at least once every 365 days. The name of the inspector and date of the inspection must be written on a tag attached to the extinguisher.

Subd. 15. **Toilet articles.** As needed, a license holder must provide and make available toilet paper, liquid hand soap, facial tissues, and single-use paper towels or warm air hand dryers.

Subd. 16. **Toilets and hand sinks.** (a) The center must have at least one hand sink for every 15 children in the center's licensed capacity.

(b) The center must have at least one toilet for every 15 children, excluding infants, in the center's licensed capacity. Toilet training chairs may be used for toddlers in lieu of a toilet.

(c) The center must provide handwashing sinks within three feet of the diaper changing surface. The sink must have hot and cold running water. In newly constructed centers or those undergoing major remodeling to the plumbing system, foot- or wrist-operated sinks must be provided in the diaper changing area.

(d) Any hand sink required for children other than infants must be in the toilet area. The temperature of hot water in the hand sinks used by children must not exceed 120 degrees Fahrenheit. Hand sinks for children must not be used for custodial work or food preparation, including preparing infant bottles. Single-service towels or air dryers must be available to dry hands and designed for easy use by children.

(e) Toilets, sinks, faucets, and hand-drying devices in the toilet area used by children under school age other than infants must be placed at a height appropriate to the ages of the children. A sturdy nonslip platform on which children may stand may be used to meet the height requirement in this paragraph for toddlers and preschoolers.

(f) Plungers and toilet-cleaning devices must be inaccessible to children.

Subd. 17. **Hazardous objects.** (a) The license holder must prevent children from accessing hazardous objects, including any item that could reasonably cause injury, choking, poisoning, burning, cutting, or other harm to a child, or any item designated by the manufacturer to be stored out of reach of children.

(b) Activities that are part of the program plan may include the use of hazardous objects when supervised by program staff.

(c) Supplies and materials used by children must be labeled "nontoxic" by the manufacturer.

Subd. 18. **Telephone.** (a) A working telephone that is capable of making outgoing calls and receiving incoming calls must be located within the licensed child care center at all times. The telephone must be accessible to staff as needed and be sufficiently charged for use at all times.

(b) Program staff must have access to a working telephone while providing care and supervision to children in care outside of the child care facility.

Subd. 19. **Animals.** A license holder must:

(1) keep each animal housed in the program up to date on vaccines required for that species under state law or local ordinance and maintain documentation of vaccinations, if any;

(2) notify parents prior to their child's enrollment of the presence of animals in the program, before new animals are housed, and prior to any animals visiting the program;

(3) not let children handle animals without adult supervision; and

(4) notify the parent of a child whose skin is broken by an animal bite or scratch or who is otherwise injured by an animal in writing of the injury.

Subd. 20. **Pest control.** (a) Effective measures must be taken to protect the center against rodents and insects. If rodents, insects, or other pests are found, the license holder must take steps to remove or exterminate them. Chemicals, baits, and traps for insect and rodent control must not be used in areas accessible to children when children are present and must be used according to the manufacturer's instructions.

(b) Chemicals to control weeds, rodents, insects, and other pests must be used only after other means have been used for control, such as eliminating harborages, removing access to food, and sealing points of entry. These compounds must be used according to labeled instructions. If chemicals are used, the license holder must notify the parents of enrolled children what pesticide will be applied and where it will be applied no less than 48 hours before application, unless in cases of emergency. Only approved, United States Environmental Protection Agency-registered insecticides, rodenticides, and herbicides may be used. Application must strictly follow all label instructions and must be authorized by the director.

Subd. 21. **Posting license.** A license holder must post the license in a clearly visible place within the child care center that is accessible to parents and guardians.

History: *2019 c 9 art 2 s 52; 2024 c 80 art 2 s 74; 2024 c 115 art 16 s 41; 2026 c 127 art 12 s 35*