142I.14 PHYSICAL SPACE REQUIREMENTS.

Subdivision 1. **Indoor space.** (a) The licensed capacity of the family child care program must be limited by the amount of usable indoor space available to children. A minimum of 35 square feet of usable indoor space is required per child.

(b) Bathrooms, closets, space occupied by major appliances, and other space not used by children may not be counted as usable space. Space occupied by adult furniture, if it is used by children, may be counted as usable indoor space.

(c) Usable indoor space may include a basement if it has been inspected and approved by a fire marshal, is free of hazards, and meets the requirements of subdivision 4.

(d) All exits leading from indoor to outdoor space must be fully clear of obstruction.

Subd. 2. **Escape routes.** (a) The main means of escape must be a stairway or door leading to the floor with an exit to the outside.

(b) Any room that has sleeping children must have an escape route separate from the main exit referenced in paragraph (a). This escape route must be a door or an egress window leading directly outside.

(c) When the basement is used for care, the basement must have at least one escape route separate from the main exit under paragraph (a). This escape route must be a door or an egress window leading directly outside.

(d) Required escape routes must not be obstructed and must be accessible and openable without special knowledge.

Subd. 3. **Outdoor learning environment and play space.** (a) A family child care program must have an outdoor play space of at least 50 square feet per child the program is licensed to serve for regular use or a park, playground, or play space within 1,500 feet of the family child care program.

(b) During outdoor play:

(1) the adult caregiver must remain outdoors with infants, toddlers, and preschoolers at all times;

(2) school-age children may be permitted in the approved outdoor play space at the family child care program without a caregiver if:

(i) the children are engaged in age-appropriate activities using age-appropriate equipment; and

(ii) a caregiver remains accessible to provide supervision when needed in accordance with section 142I.01, subdivision 46; and

(3) when the outdoor play space is not at the family child care program, a caregiver must accompany and supervise all children in transit and at the outdoor play space.

(c) Caregivers must prevent children from accessing hazardous materials.

(d) Outdoor play areas must be protected from traffic and nearby hazards. If traffic or other hazards are present, the family child care program must have:

(1) a continuous fence in good condition with functioning gates or a continuous natural barrier or a combination of fence and naturally occurring or landscaping barrier. The fence or natural barrier must ensure that children are not able to leave the outdoor play area unsupervised; or

(2) a supervision and safety plan if a fence is not used that includes alternative methods to ensure the health, safety, and protection of children in care.

(e) Electrical fences must be inaccessible to children in care.

(f) Caregivers must take measures to protect children from the dangers of sun exposure, extreme heat or cold, and air quality.

(g) Outdoor equipment, whether stationary or portable, must be safe, be in good repair, be assembled according to the manufacturer's guidelines, and meet the developmental needs of the age groups of children using the space.

(h) Equipment including but not limited to climbing gyms, swings, and slides must:

(1) not have openings between 3-1/2 inches and nine inches in size to prevent entrapment of the head or other body parts;

(2) have guardrails or protective barriers on platforms that are 30 inches or higher. A protective barrier is a continuous structure surrounding the platform that is designed to prevent a person from falling or passing through, whether intentionally or accidentally; and

(3) be assembled, installed, and utilized according to the manufacturer's guidelines.

Subd. 4. **Conditions of the program.** The licensed space must be maintained in a manner that protects the health and safety of children in care. The license holder must ensure that:

(1) the family child care program space is free from conditions that endanger the health or safety of children, including unsanitary conditions or excessive accumulation of materials that can start a fire or create other safety hazards;

(2) the furnishings, equipment, and materials are arranged and stored so that hallways, stairways, doors, and exit routes remain unobstructed and usable for safe exit; and

(3) the amount and placement of stored items do not create an increased risk of fire or injury or impede the safe supervision of children.

Subd. 5. **Portable wading pools.** (a) A child must not use a portable wading pool as defined in section 144.1222, subdivision 2a, at a family child care program unless the parent of the child has provided written consent. The written consent must include a statement that the parent has received and read material provided by the Department of Health on wading pool safety for parents related to the risk of disease transmission as well as other health risks associated with the use of portable wading pools.

(b) The license holder must empty wading pools daily.

(c) A caregiver must supervise children at all times while a wading pool is in use and must be able to clearly see all parts of the wading area. When not in use under the supervision of a caregiver, wading pools must be inaccessible to children.

Subd. 6. **Swimming pools.** (a) For the purposes of this subdivision, "swimming pool" has the meaning in section 144.1222, subdivision 2b, and does not include a portable wading pool as defined in section 144.1222, subdivision 2a, or a spa pool as defined in Minnesota Rules, part 4717.0250.

(b) A license holder must comply with the following requirements in order for children in the program to use a swimming pool located at the program:

(1) not have had a licensing sanction under section 142B.18 or a correction order or conditional license under section 142B.16 relating to the supervision or health and safety of children during the prior 24 months;

(2) notify the county agency before initial use of the swimming pool each calendar year;

(3) obtain written consent from a child's parent allowing the child to use the swimming pool and renew the parent's written consent at least annually. The written consent must include a statement that the parent has received and read materials provided by the Department of Health related to the risk of disease transmission as well as other health risks associated with swimming pools. The written consent must also include a statement that neither the Department of Health nor the county agency will monitor or inspect the license holder's swimming pool;

(4) attend and successfully complete a swimming pool supervision training course annually;

(5) attend and successfully complete one of the following swimming pool operator training courses once every five years:

(i) both of the National Spa and Pool Institute Tech I and Tech II courses; or

(ii) the National Recreation and Park Association aquatic facility operator course;

(6) ensure all toilet-trained children use the bathroom before the children enter the swimming pool;

(7) require all children who are not toilet trained to wear swim diapers while in the swimming pool;

(8) if fecal material enters the swimming pool water, add three times the normal shock treatment to the pool water to raise the chlorine level to at least 20 parts per million and close the pool to swimming for the 24 hours following the entrance of fecal material into the water or until the water pH and disinfectant concentration levels have returned to the standards specified in clause (10), whichever is later;

(9) prevent any person from entering the swimming pool who has an open wound or has or is suspected of having a communicable disease;

(10) maintain the swimming pool water at a pH of not less than 7.2 and not more than 8.0, maintain the disinfectant concentration between two and five parts per million for chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record of the swimming pool's operation with pH and disinfectant concentration readings on days when children cared for at the family child care program are present;

(11) have a disinfectant feeder or feeders;

(12) have a recirculation system that will clarify and disinfect the swimming pool volume of water in ten hours or less;

(13) maintain the swimming pool's water clarity so that an object on the pool floor at the pool's deepest point is easily visible;

(14) comply with the provisions in section 144.1222, subdivisions 1c and 1d;

(15) have in place and enforce written safety rules and swimming pool policies;

(16) have in place at all times a safety rope that divides the shallow and deep portions of the swimming pool;

(17) maintain compliance with any existing local ordinances regarding swimming pool installation, decks, and fencing;

(18) maintain a water temperature of not more than 104 degrees Fahrenheit and not less than 70 degrees Fahrenheit;

(19) cover the swimming pool when not in use;

(20) follow the requirements of subdivision 7; and

(21) for lifesaving equipment, have a United States Coast Guard-approved life ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the caregiver supervising the swimming pool.

Subd. 7. **Water hazards.** (a) Swimming and wading pools, beaches, wells, or other bodies of water on or adjacent to the site of the family child care program must be inaccessible to children except during periods of supervised use.

(b) All water hazards, such as inground or aboveground swimming pools, hot tubs, stationary wading pools, fish ponds, and water retention or detention basins on the site of the family child care program must be enclosed with a permanent fence, wall, building wall, other physical barrier, or combination thereof that is at least four feet in height. A house exterior wall can constitute one side of a fence if the wall has no openings capable of providing direct access to the hazard, including but not limited to doors or windows.

(c) The family child care program may not allow a child in care to use a swimming pool or beach without an adult caregiver trained in first aid and CPR present.

(d) Bodies of water must be separated from the play area by a fence or other physical barrier that prevents children from accessing the water. The house door alone is not a sufficient barrier.

Subd. 8. **Water play.** (a) Parental permission is not required for children to use splash pads, sprinklers, or other water toys that spray or jet water on the users and do not have standing water. Splash pads, sprinklers, or other water toys that retain water are considered wading pools and are required to meet the requirements of subdivision 5.

(b) Water tables designed for children to play with their hands must be emptied daily. The caregiver must supervise children at all times while a water table is in use and must be able to clearly see all parts of the water table. When not in use under the supervision of a caregiver, water tables must be inaccessible to children.

Subd. 9. **Separation between attached garage and family child care program.** The separation wall between the residence and garage must meet the requirements of Minnesota Rules, part 1309.0302.

Subd. 10. **Ventilation, heating, and cooling systems.** (a) Heating, ventilation, and air conditioning systems must be operated according to the manufacturer's instructions and in good repair. Gas, coal, wood, kerosene, or oil heaters must be vented to the outside in accordance with the State Building Code.

(b) Items that can be ignited and support combustion, including but not limited to plastic, fabric, and wood products, must not be located within:

(1) 18 inches of a gas or fuel-oil heater or furnace; or

(2) 36 inches of a solid-fuel-burning appliance.

(c) If a license holder produces manufacturer instructions listing a distance closer than the requirements under paragraph (b), the manufacturer instructions control the required distance of combustible items from gas, fuel-oil, or solid-fuel-burning heaters or furnaces.

(d) When in use, fireplaces, wood-burning stoves, solid-fuel-burning appliances, space heaters, steam radiators, outdoor fire pits, and other potentially hot surfaces, such as steam pipes, must be protected by guards or protective covering to keep hands and bodies away, prevent burns, and prevent fires. All fireplaces, wood-burning stoves, space heaters, steam radiators, and furnaces must be installed according to the State Building Code. The furnace, hot water heater, and utility rooms must be inaccessible to children.

(e) Ventilation of usable space must meet the requirements of the State Building Code. Outside doors and windows used for ventilation in summer months must be screened when biting insects are prevalent. The screens must be in good repair. Sources of harmful and unpleasant odors including urine and pet waste must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilation.

Subd. 11. **Temperature.** A minimum temperature of 62 degrees Fahrenheit must be maintained in indoor areas used by children.

Subd. 12. **Sewage disposal.** Family child care programs must have working toilets and a sewage disposal system that conform to the State Building Code or local septic system ordinances. Toilet training equipment must be emptied and cleaned after each use. Outdoor toilets, including compostable toilets, are permissible in accordance with local septic system ordinances.

Subd. 13. **Construction or remodeling.** During construction or remodeling, children must not have access to construction or remodeling areas within or around the premises.

Subd. 14. **Interior walls and ceilings.** The walls and ceilings within a family child care program, including those in corridors, stairways, and lobbies, must have a flame spread rating of 200 or less.

Subd. 15. **Electrical services.** (a) All electric outlets in a family child care program accessible to children must be tamperproof or shielded when not in use. All major electrical appliances must be properly installed and grounded in accordance with the State Electrical Code and in good working order.

(b) Electrical wiring must be sized to provide for the load and be in good repair. Extension cords must not be used as a substitute for permanent wiring.

Subd. 16. **Fire extinguisher.** A portable, operational, multipurpose, and dry chemical fire extinguisher with a minimum 2-A 10-BC rating must be located near the required exit door of the program at all times. The fire extinguisher must be serviced annually by a qualified inspector and evidence of annual service must be documented. All caregivers must know how to properly use the fire extinguisher.

Subd. 17. **Carbon monoxide and smoke alarms.** (a) A family child care program must have an approved and operational carbon monoxide alarm installed within ten feet of each area used for sleeping children in care.

(b) A family child care program must properly install and maintain smoke alarms models that have been approved by the Underwriter Laboratory on all levels, including basements, and in hallways outside rooms used for sleeping children in care. Smoke alarms are not required in crawl spaces and uninhabitable attics. For family child care programs in buildings that began construction on or after March 31, 2020, smoke alarms must be installed and maintained in each room used for children in care to sleep.

Subd. 18. **Stairways.** All family child care programs with stairways must:

(1) have handrails on at least one side of stairways of four or more steps;

(2) enclose any open area between the handrail and stair tread with a protective guardrail as specified in the State Building Code. The back of the stair risers must also be enclosed;

(3) use gates at the top and bottom of stairways when children who are six to 18 months old are in care; and

(4) keep stairways well lit, in good repair, and free of clutter and obstructions.

Subd. 19. **Lofted spaces.** Decks, balconies, or lofts that are used by children and are more than 30 inches above the ground or floor must be surrounded by a protective guardrail and be constructed in compliance with the State Building Code. The State Building Code allows appropriate openings for access to the spaces under this subdivision, such as a doorway or a gate. Wooden decks must be free of splinters and in good repair.

Subd. 20. **Locks and latches.** (a) A door latch on a closet or other confining space must be able to be unlatched so that the door can be opened from inside the closet or other confining space.

(b) Every interior door lock must permit opening of the locked door from the outside and the opening device must be readily accessible to all caregivers.

(c) Exit doors must not have double cylinder locks where a key is required on both sides.

(d) Locks may not be used in place of supervision.

Subd. 21. **Tobacco products, cannabis, vaping, drugs, and alcohol use prohibitions.** (a) Smoking of tobacco, cannabis, or any other product, including through electronic delivery devices, is prohibited in both indoor and outdoor family child care program environments and in any vehicles used by the family child care program during hours of operation.

(b) The use of alcohol or illegal or recreational drugs is prohibited on the premises of a family child care program during hours of operation.

(c) If the license holder allows smoking of tobacco, cannabis, or any other product, including through electronic delivery devices, on the premises outside of child care hours, the license holder must verbally provide notice to parents and must post written notice in an obvious location disclosing this information.

(d) While caring for children, a caregiver must not be under the influence of any substance that impairs the individual's ability to supervise children or perform the individual's duties.

History: *2002 c 279 s 6; 2002 c 333 s 2; 1Sp2019 c 9 art 2 s 57; 2023 c 25 s 125; 2023 c 70 art 8 s 32-35; 2024 c 80 art 2 s 74; art 8 s 70; 2024 c 115 art 16 s 41; art 19 s 7,8; 2026 c 127 art 13 s 14*