This section provides rules and information that apply to the space requirements, structure, layout, and maintenance of the child care facility, both inside and outside.

Studies have shown that the quality of a child care facility’s environment is related to children’s cognitive, social, and emotional development. A quality environment involves elements such as the indoor space available to the children, well-defined activity settings, available privacy, and the quality of the outdoor play space. *CFOC 3rd ed. Standard 5.1.2.1. p. 203.*

Proper maintenance is a key factor in ensuring a safe environment for children. Regular inspections are critical to prevent breakdowns of equipment and the accumulation of hazards in the environment, and to ensure that needed repairs are made quickly. Regular maintenance checks and appropriate corrective actions can reduce the risk of potential injury. *CFOC 3rd ed. Standard 5.3.1.1. pp. 237-238; Standard 5.7.0.2. pp. 259-260; Standard 6.2.5.1 p. 277.*

1. **There shall be at least 35 square feet of indoor space for each child in care, including the provider’s and employees’ children.**

**Rationale / Explanation**

There has been growing research into how the physical design of a child care setting affects a child’s development. The American Academy of Pediatrics (AAP) and the American Public Health Association (APHA) recommend that a child care facility has at least forty-two to fifty square feet of usable floor space per child. *CFOC 3rd ed. Standard 5.1.2.1. p. 203.*

A minimum square footage of indoor space per child is required because:

- Crowding has been shown to be associated with an increased risk of sickness.
- Children’s behavior tends to be more constructive when they have sufficient space to move and play.

**Compliance Assessment and Guidance**

At the pre-license inspection, a licensor will:

- Measure the facility’s indoor space that will be used by children ages 0-12 years, including the provider’s own children who reside in the home and employees’ children who will attend the program.
- Determine and document the maximum capacity based on square footage.

Generally, rooms are not remeasured on subsequent inspections except when:

- A room or area in the facility has been remodeled.
- A provider requests a change to their capacity.
- A room or space appears overcrowded by of items unrelated to child care or by children.

Children may temporarily be in an area with less than 35 square feet of space per child while in a group activity that requires less movement, such as eating, napping, listening to a story, watching a puppet show, working on an art project, or doing homework. Such activities (excluding nap
times) should not exceed 2 hours per day and the length of time should be appropriate to the activity and the children’s age. For example, an hour-long art project in a smaller space for preschoolers would not be an appropriate activity length.

**Noncompliance Level**
Level 2 Noncompliance

(2) **Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:**
   (a) by children,
   (b) for the care of children, or
   (c) to store classroom materials.

(3) The following areas are not included when measuring indoor space for children’s use:
   (a) bathrooms,
   (b) closets,
   (c) hallways, and
   (d) entryways.

(4) **The maximum allowed capacity for a child care facility may be limited by local ordinances.**

**Rationale / Explanation**
Some city ordinances limit the capacity of child care facilities. CCL will not issue a license with a greater capacity than allowed by the city where the facility is located.

When a maximum capacity is stated on a city’s business license, or on a fire or kitchen inspection report, it may result in a reduced capacity when the child care license is renewed.

(5) **The number of children in care at any given time shall not exceed the capacity identified on the license.**

**Rationale / Explanation**
Research reveals that there are negative effects on children when a child care facility is overcapacity. These may include increased noise level, overcrowding, more injuries, and lower quality of caregiver interactions with the children. For more information, visit the Human Development Outreach & Extension website at:

**Compliance Assessment and Guidance**
A licensor will:
- Count the number of children who are being cared for and compare the number to the capacity stated on the child care license.

**Noncompliance Level**
Level 2 Noncompliance
(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

Rationale / Explanation
Lead is highly toxic. Exposure to it can be dangerous, especially for young children. Lead exposure can affect a child’s ability to learn, succeed in school, and function later in life. It can cause serious health problems including permanent brain damage. Damage caused by overexposure to lead can be irreversible. *CFOC 3rd ed. Standard 5.2.9.13. pp. 235-236.*

Lead-based paint and lead-contaminated dust are the most hazardous sources of lead poisoning in children and may be found in:
- House paints and paint used on outdoor play equipment made before 1978
- Some imported vinyl miniblinds made before 1997
- Some imported toys

Compliance Assessment and Guidance
For providers using buildings and structures that were built before 1978:
- Regularly inspect for damaged paint.
- Test for lead in any area with damaged paint. If there are four areas with damaged paint then there must be four tests for lead.
- Maintain documentation that there is no lead in the paint.
- If lead-based paint is found, contact the local health department or the Utah Department of Environmental Quality (DEQ) for how to remove or repair the lead-based paint.
- According to DEQ regulations, if there is an area with 6 square feet or more of damaged paint indoors or an area with 20 square feet or more of damaged paint outdoors, then correction must be done by a certified individual.
- More information can be found at:
  - https://deq.utah.gov/ProgramsServices/programs/air/lead/index.htm#pamp

A licensor will:
- Inspect inside and outside walls and play surfaces that are accessible to children.
- Inspect inside and outside walls and play surfaces that are accessible to children for peeling, flaking, chalking, or failing paint.
- If there is damaged paint, ask when the building or play structure was built.
- If the building or structure was built before 1978, ask to see test results that each area with damaged paint contains no lead.
- Issue a noncompliance finding if there is damaged paint on a building or structure built before 1978 and there is no documentation that each area with damaged paint is lead-free.

For noncompliance, the licensor will conduct a Follow-up Inspection to:
- Review documentation that the damaged paint was tested and is lead-free, or
- Confirm that the damaged paint was repaired according to health department or DEQ instructions.
  - Visually check that each area that had damaged paint is repaired.
  - Review documentation that shows repairs were made according to DEQ or local health department instructions.
**Noncompliance Level**

Level 1 Noncompliance if:
- A building or play structure constructed before 1978 has untested failing paint in an area accessible to children.
- Any area has tested paint that contains lead and it has not been appropriately remediated.

Level 2 Noncompliance if:
- A building or play structure constructed before 1978 has untested failing paint in an area inaccessible to children.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

**Rationale / Explanation**

Mechanical ventilation is a way to move air in and out of a room. When windows cannot be kept open, air should be circulated by a heating, ventilation, air conditioning, and cooling system as well as by using fans.

Air quality significantly impacts people’s health. Lack of adequate air filtration or ventilation results in contaminated air that is sometimes more polluted than the outdoor air. Children who spend long hours inside breathing contaminated air are more likely to develop respiratory problems, allergies, and asthma. Air circulation is essential to clear infectious disease agents, odors, and toxic substances in the air. *CFOC 3rd ed. Standard 5.2.1.1. p. 211.*

The American Academy of Pediatrics recommends that as much fresh air as possible be circulated into rooms used by children. Windows with screens (to prevent the entry of insects) should be opened whenever weather and the outdoor air quality permit, and windows in areas used by children under age 5 years should not open more than 4 inches, or should be protected with guards that prevent children from exiting or falling out. *CFOC 3rd ed. Standard 5.2.1.1. p. 211; Standard 5.1.3.2. pp. 204-205.*

**Compliance Assessment and Guidance**

A licensor will:
- Check that each room used by children has mechanical ventilation or has at least one screened window that can be opened.
- Verify that there are no signs of inadequate ventilation such as mold growing in corners, a damp or musty smell, or a room with a temperature that varies greatly from the temperature of other rooms in the building.

Level 2 Noncompliance if:
- A room or area used by the children does not have either mechanical ventilation or a window to open.
- There are signs of inadequate ventilation in a room used by children.
- The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is above the facility’s ground-floor level.

Level 3 Noncompliance if:
- The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is on the facility’s ground floor or basement level.
(8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.

Rationale / Explanation
In Caring for Our Children it is advised that natural lighting is provided in rooms where children work and play for more than two hours at a time. It is also recommended that all areas of the facility have glare-free natural and/or artificial lighting that provides adequate illumination and comfort for program activities. CFOC 3rd ed. Standard 5.2.2.1. p. 217.

Appropriate illumination facilitates comfort, cleanliness, and most importantly the health and safety of children and adults. Inadequate artificial lighting has been linked to eyestrain, headache, and nonspecific symptoms of illness. CFOC 3rd ed. Standard 5.2.2.1. p. 217.

Lighting levels may be reduced during nap times to promote resting. However, rooms should be lighted enough to allow caregivers to see children's facial features for signs of distress or sickness. CFOC 3rd ed. Standard 5.2.2.1. p. 217

Compliance Assessment and Guidance
A licensor will:
• Issue a noncompliance finding when a room or area is completely dark making it unsafe to go in and out due to inadequate lighting.

Noncompliance Level
Level 2 Noncompliance if:
• There is inadequate lighting in a diapering or food preparation area, or if it is completely dark in a sleeping room.

Level 3 Noncompliance if:
• There is inadequate lighting in any other area used by the children.

(9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

Rationale / Explanation
The American Academy of Pediatrics and the American Public Health Association recommend that a draft-free indoor temperature between 68 and 75 degrees Fahrenheit be maintained during the winter months. A temperature between 74 and 82 degrees Fahrenheit should be maintained during the summer months. CFOC 3rd ed. Standard 5.2.1.2. p. 212.

For comfort and health, all rooms that children use should be heated and cooled to maintain required temperatures. CFOC 3rd ed. Standard 5.2.1.2. p. 212.

According to the National Institutes of Health, there may be an association between sleeping room temperatures and increased risk of SIDS. It is recommended that sleeping rooms be kept at a temperature comfortable for a lightly-clothed adult, and infants should not be overly bundled or should not feel hot to the touch when sleeping.

Compliance Assessment and Guidance
A licensor will:
• Use a thermometer to measure the air temperature in any room or area that seems to be too hot or too cold.
Noncompliance Level
Level 2 Noncompliance if:
• The temperature is out of range in a room with infants or toddlers.

Level 3 Noncompliance if:
• The temperature is out of range in any other rooms.

(10) **There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.**

**Rationale / Explanation**
The purpose of this rule is to ensure that the provider and caregivers can contact the parents of children in care, that the children's parents can contact the provider or a caregiver, and, if needed, the provider or a caregiver can always contact emergency personnel. *CFOC 3rd ed. Standard 5.3.1.12. p. 243.*

**Compliance Assessment and Guidance**
A licensor will:
• Observe or ask the location of a working telephone that is available to communicate with parents and to use in case of an emergency.
• Refer to the following guideline:
  - A cell phone meets the requirements of this rule as long as there is a phone in the home, each vehicle, and at offsite activities whenever children are present.

Noncompliance Level
Level 2 Noncompliance

(11) **There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.**

**Rationale / Explanation**
Children use the bathroom often, and cannot wait long when they have to use the toilet. Sinks should be nearby to facilitate handwashing. *CFOC 3rd ed. Standard 5.4.1.6. p. 246.*

Transmission of many communicable diseases can be prevented through handwashing. To facilitate routine handwashing at the needed times, sinks must be close at hand and permit caregivers to provide continuous supervision while children wash their hands. *CFOC 3rd ed. Standard 5.4.1.6. p. 246.*

**Compliance Assessment and Guidance**
A licensor will:
• Confirm that there is at least one working toilet and at least one working sink available for the children to use.

During regular operation hours, the required toilet and sink must be in working condition.

If the provider is unable to meet this requirement due to equipment failure and there is only one toilet at the facility, the repair must be made within 1 working day and the licensor will issue a noncompliance finding to rule 90-9(21)(b).
The following are not acceptable toilets or sinks:
- Indoor and outdoor portable toilets, such as chemical toilets, composting toilets, and bucket toilets
- A portable sink with no water in it

(12) **A bathroom that provides privacy shall be available for use by school-age children.**

**Rationale / Explanation**
Children should be allowed the opportunity to practice modesty when independent toileting behavior is well established. *CFOC 3rd ed. Standard 5.4.1.2. p.245.*

**Compliance Assessment and Guidance**
A licensor will:
- Inspect a bathroom used by school-age children to ensure that it is designed for privacy.
- Refer to the following guideline:
  - A bathroom that provides privacy has a full-length door or curtain that closes, and only one child at a time uses the bathroom.

**Noncompliance Level**
Level 2 Noncompliance

(13) **There shall be an outdoor area that is safely accessible to children.**

**Rationale / Explanation**
A safely accessible outdoor area is important to prevent injury to children or to keep a child from escaping on the way to the area. An outdoor area is considered safely accessible when the way to reach it is free of potential hazards. Children should not be able to access streets, parking lots, ditches, etc. when going outside to play. *CFOC 3rd ed. Standard 6.1.0.1. p. 265.*

**Compliance Assessment and Guidance**
In order to be licensed, there must be an outdoor area on the provider's premises that can be safely reached and used by the children. Facilities that do not have outdoor areas on site cannot ensure that children in their care are playing on equipment or in a space that is safe. Because open air is vital for children, indoor space cannot replace outdoor space.

The route from the house to the outdoor area must be safe. For example, an outdoor area is not safely accessible if children must walk across an unsafe deck (such as one with broken boards or holes in it) or cross a driveway where cars come and go.

The following examples of outdoor areas that are safely accessible include:
- An outdoor area that is directly adjacent to the house, so that children exit the house straight into the play area.
- A large, open-air deck that children access directly from the house as long as the deck has the required space per child and meets other licensing requirements.
- An outdoor area on the premises that is reached by way of a fenced walkway.
- When the building and entire outdoor area are surrounded by fencing, as long as the area inside the fence does not include cars or other hazards.
- A common area in a multi-home complex as long as a caregiver is always with the children, the area can be safely reached, and portable fencing is set up around the area each time the children are outside.
To assess compliance, a licensor will:
• Walk the route from the house to the outdoor area.
• Issue a noncompliance finding if access to the outdoor area is unsafe.

**Noncompliance Level**
Level 2 Noncompliance

(14) **The outdoor area shall have at least 40 square feet of space for each child using the area at one time.**

**Rationale / Explanation**
Children benefit from being outside as much as possible and it is important that there is enough space to allow children safe freedom of movement during active outdoor play. Providing more square feet per child may correspond to a decrease in the number of injuries associated with gross motor play. CFOC 3rd ed. Standard 6.1.0.1. p. 265.

**Compliance Assessment and Guidance**
At the pre-license inspection, a licensor will:
• Measure the facility’s fenced outdoor space that will be used by children ages 0-12 years, including the provider’s own children who reside at the home and employees’ children who will attend the program.
• Determine and document the maximum capacity allowed by CCL based on the total square footage.
• Remeasure the outdoor space at a subsequent inspection:
  - If the facility’s outdoor area has been renovated or changed.
  - When a provider requests a change to their capacity.
  - If the outdoor play area appears overly crowded during an inspection.

A provider can be in compliance with this rule by having more than one outdoor area, as long as each area is safely accessible, fenced as required, and in compliance with other licensing rules.

**Noncompliance Level**
Level 2 Noncompliance

(15) **The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:**
(a) has a speed of 25 miles per hour or higher, or
(b) has more than 2 lanes of traffic.

**Rationale / Explanation**
Enclosing the outdoor area helps to ensure proper supervision and protection, prevention of injuries, and control of the outdoor area. A fence or other barrier prevents children from leaving the outdoor area and accessing streets and other hazards. It also serves to keep unwanted people and animals out of the outdoor area. CFOC 3rd ed. Standard 6.1.0.8. p. 268.

**Compliance Assessment and Guidance**
To determine whether or not a fence or other barrier is required to enclose the outdoor area, a licensor will:
• Calculate the distance of the home to any street that meets the above conditions by using a car odometer or the half-mile radius map.

To determine if a **required** fence or barrier is at least 4 feet (48 inches) high, the licensor will:
• Walk the entire perimeter of the fence and measure the fence using the 48-inch tool.
• Measure the fence from the side the children play on.
• Measure each side of the fence at its lowest point and include measuring a gate.
• Refer to the following guideline:
  - If a fence or wall was previously approved by CCL, then the barrier’s height is considered
    in compliance as long as 1) the barrier has not been replaced, repaired, or altered; and
    2) all areas of the barrier measure within 5 inches of the required 4-foot height. This 5-inch
    allowance only applies to a previously-approved barrier that has not changed since the
    approval; it does not apply to barriers formed by bushes or shrubs, etc. If the fence or wall
    was replaced, repaired, adjusted, or it has changed since the last CCL inspection, it must
    meet the 4-foot height requirement.

Other assessment guidelines include:
• It is not out of compliance if a fence is lower than 48 inches in height due to temporary
  weather conditions, such as snow on the ground at the base of the fence.
• Bushes will be considered a natural barrier when there are no gaps 5 by 5 inches or greater.
• Interior fences within the 4-foot perimeter fence do not need to be 48 inches high, unless
  otherwise required in rule.
• If the provider uses temporary fencing in order to comply with this rule, during the Announced
  Inspection a licensor will:
    - Ask the provider to set up the fencing where it is normally placed when children use the
      outdoor area.
    - Measure the height of the fencing as described above.
    - Verify that the fencing does not have gaps. Refer to 90-9(17).
    - Verify that the fence encloses the required amount of space. Refer to 90-9(14).

Noncompliance Level
Level 1 Noncompliance if:
• There is no fence or barrier enclosing the outdoor area, or an area of the fence or barrier is
  less than 36 inches high.

Level 2 Noncompliance if:
• An area of the fence or barrier is less than 47 inches high (or is less than 43 inches high as
  previously described).

(16) The following hazards shall be separated from the children’s outdoor area with a fence,
wall, or solid natural barrier that is at least 4 feet high:
(a) barbed wire that is within 30 feet of the children’s play area;
(b) livestock on or within 50 yards of the property line;
(c) dangerous machinery, such as farm equipment, on or within 50 yards of the property
  line;
(d) a drop-off of more than 5 feet on or within 50 yards of the property line; or
(e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream,
    creek, or animal watering trough, on or within 100 yards of the property line.

Compliance Assessment and Guidance
To determine whether or not a fence or other barrier is required to separate the outdoor area from
hazards, a licensor will:
• Calculate the distance from the children’s outdoor area or the property line to a known hazard
  by using a car odometer, the half-mile radius map, or a tape measure.
• Inspect the fence by following the assessment procedures and guidelines as previously
  described in 90-9(15).
Hazards include:

- Active railroads
- Barbed wire
- Livestock such as horses, cattle, sheep, alpaca, buffalo, and other large animals
- Machinery such as farm equipment
- A drop-off of 5 feet or more (assessed by measuring from the top of the drop-off straight down to where an object or person would fall)
- Any water that pools 2 inches or deeper such as a swimming pool, canal, watering trough, river, pond, fountain, etc.

**Noncompliance Level**

Level 1 Noncompliance if:

- There is no fence or barrier separating the outdoor area from a hazard as required, or an area of the fence or barrier is less than 36 inches high.

Level 2 Noncompliance if:

- An area of the fence or barrier is less than 47 inches high.

(17) **There shall be no gap 5 by 5 inches or greater in or under the fence.**

**Rationale / Explanation**

An effective fence prevents a child from getting over, under, or through it, and keeps children from leaving the outdoor play area without adult supervision. Although not required by rule, small openings in the fence (no larger than three and a half inches) prevent entrapment and discourage climbing. *CFOC 3rd ed. Standard 6.1.0.8. p. 268.*

**Compliance Assessment and Guidance**

To determine compliance with this rule, a licensor will:

- Walk the entire perimeter of all required fences – perimeter fences enclosing the outdoor area and any interior fences required to separate children from hazards.
- Without pushing on the fence, use the gap-measure tool to assess the size of any gap in or under the fence.
- Refer to the following guideline:
  - Even if a fence or wall has been previously approved, check that there are no gaps in the barrier, and that any part that may have been fixed or replaced since the last inspection is in compliance with rule.
  - Issue a noncompliance finding for any gap that is 5 by 5 inches or greater in size.
  - Depending on the purpose of the fence, issue a noncompliance finding to rule 90-9(15) or 90-9(16) for not having a fence if any gap is 3 feet or greater in size.

**Noncompliance Level**

Level 1 Noncompliance if:

- Any required fence or barrier has a 5 by 5 inch gap or greater that is lower than 36 inches.

Level 2 Noncompliance if:

- Any required fence or barrier has a 5 by 5 inch gap or greater that is 36 inches or higher.
(18) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

**Rationale / Explanation**
Exposure to sun is needed, but children must be protected from excessive exposure. Individuals who suffer severe childhood sunburns are at increased risk for skin cancer. It is important that shade be available to prevent both sunburn and heat exhaustion. Practicing sun-safe behavior during childhood is the first step in reducing the chances of getting skin cancer later in life. *CFOC 3rd ed. Standard 6.1.0.7. p. 267.*

Children do not adapt to extremes in temperature as effectively as adults. Children produce more metabolic heat per mass unit than adults when walking or running. They also have a lower sweating capacity and cannot dissipate heat by evaporation as quickly. *CFOC 3rd ed. Standard 3.1.3.2. p. 93.*

**Compliance Assessment and Guidance**
When assessing the outdoor area, a licensor will:
- Observe whether there is shade available to protect children from sun and heat.
- Ask how shade is made available if no shade is observed and children are not outside at the time of the inspection.

To be in compliance:
- There must be a provision for shade whenever the children are in the outdoor area, and it must be provided year-round.
- Shade can come from a tree, awning, patio roof, or other structure such as the side of the house. A canopy or umbrella may be used as long as it can be set up and stand on its own.
- There is no rule about the time of day that children play outside as long as shade is available to the children.

**Noncompliance Level**
Level 2 Noncompliance if:
- Shade is not available when children are in the outdoor area (with the exception stated below).

Level 3 Noncompliance if:
- Shade is not available when children are in the outdoor area, but it is cold weather and children are wearing cold-weather clothing.

(19) If there is a swimming pool on the premises that is not emptied after each use:
(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and
(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.

**Rationale / Explanation**
There may be state and local laws regulating the operation of a swimming pool. For example, electrical equipment that is at and around the pool should be installed and inspected as required by the regulatory electrical inspector. Because young children can lose or gain body heat more easily than adults, water temperature for swimming and wading should be warm enough to
Prevent excess loss of body heat and cool enough to prevent overheating. The pool should be cleaned and the water quality should be maintained to control bacteria and the spread of disease through ingestion of pool water. *CFOC 3rd ed. Standard 6.3.3.3; Standard 6.3.3.4; Standard 6.3.4.1. pp. 281-283.*

In some instances, children have drowned as a result of their body or hair being entrapped or seriously injured by sitting on drain grates. When drain covers are broken or missing, the body can be entrapped by the resulting suction. All covers for the main drain and other suction ports of swimming and wading pools should be listed by a nationally recognized testing laboratory. *CFOC 3rd ed. Standard 6.3.1.6. p. 280.*

Drowning accounts for the highest rate of unintentional injury-related death in children younger than 5 years old. Most children drown within a few feet of safety and in the presence of a supervising adult. It is essential that any pool not emptied after use be inaccessible to children. *CFOC 3rd ed. Standards 6.3.1.1. - 6.3.4.1. pp. 278-283.*

**Compliance Assessment and Guidance**

This rule will be considered out of compliance if:

- There is noncompliance to a federal, state, or local law or another agency’s administrative regulation regarding the operation of a swimming pool, and
- There is no other child care licensing rule that specifically addresses the violation.

If the law or rule from one agency is stricter than another, the licensee must follow the stricter of the two regulations.

A licensor will:

- Observe that any pool that is not emptied after use is enclosed within a fence or safety cover.
- If fenced, measure the fence height to ensure that it is at least 4 feet high on all sides.
- If covered with a safety cover, check ASTM documentation.
- Observe that all locks or latches on the fence or safety cover are properly locked. (A pool fence must be locked with a key or combination lock. For a pool cover, every latch must be engaged and all sides must be secured.)

**Noncompliance Level**

**Level 1 Noncompliance**

(20) *A hot tub on the premises with water in it shall be inaccessible to children by being:*

(a) kept locked with a properly working cover; or

(b) enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.

**Rationale / Explanation**

Any body of water, including hot tubs, presents a drowning risk to young children. Toddlers and infants are particularly susceptible to overheating. Areas should be secured to prevent any access by children. *CFOC 3rd ed. Standard 6.3.5.1. p. 283.*

**Compliance Assessment and Guidance**

A licensor will:

- Observe that the hot tub is enclosed within a fence or safety cover.
- If fenced, measure the fence height to ensure that it is at least 4 feet high on all sides.
- Observe that all locks or latches on the fence or safety cover are properly locked. (A hot tub
fence must be locked with a key or combination lock. For a hot tub cover, every latch must be engaged and all sides must be locked.)

**Noncompliance Level**
Level 1 Noncompliance.

(21) **The provider shall maintain buildings and outdoor areas in good repair and safe condition including:**
(a) ceilings, walls, and floor coverings;
(b) lighting, bathroom, and other fixtures;
(c) draperies, blinds, and other window coverings;
(d) indoor and outdoor play equipment;
(e) furniture, toys, and materials accessible to the children; and
(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

**Rationale / Explanation**
The physical structure where children spend each day can present health and safety concerns if the facility is not maintained in good repair and safe condition. Floors that are cracked or porous cannot be kept clean and sanitary and flooring in disrepair can cause falls and other injuries. Damaged floors, walls, or ceilings can expose underlying hazardous structural elements and materials such as electrical wiring, fiberglass, asbestos, or peeling paint that can be ingested. *CFOC 3rd ed. Standard 5.3.1.6. pp. 240-241; Standard 5.7.0.7. p. 261.*

It is recommended that light fixtures contain shielded or shatterproof bulbs throughout a child care facility. This prevents injury to people and contamination of food if a light bulb breaks. Halogen lights burn at a high temperature and are a potential burn or fire hazard. Multi-vapor and mercury lamps can cause serious skin burns and eye inflammation if the bulb is broken. *CFOC 3rd ed. Standards 5.2.2.1 - 5.2.2.3. pp. 217-218.*


Window coverings should be in good repair because children could become entangled in torn draperies or broken blinds. Blinds and drapery cords should have tension or tie-down devices to hold the cords tight. Cords without these devices pose a strangulation hazard. Some imported vinyl mini-blinds contain lead and can deteriorate from exposure to sunlight and heat and form lead dust on the surface of the blinds which is toxic. Deteriorating mini-blinds should be replaced. *CFOC 3rd ed. Standard 3.4.6.1. p. 129; Standard 5.2.9.13. pp. 235-236.*

Proper maintenance of indoor and outdoor play equipment is a key factor in ensuring a safe play environment for children. Each play area is unique and requires a routine maintenance check developed specifically for that play area. Equipment and furnishings should be closely inspected to determine whether they meet licensing standards. *CFOC 3rd ed. Standard 5.3.1.1. pp. 237-238; Standard 5.7.0.2. p. 259-260.*

Furnishings, toys, and other materials that are not sturdy, safe, or in good repair may cause falls, entrap a child’s head or limbs, cut or pinch skin, or cause other injuries. Staff should check on a regular basis to ensure that toys and other materials used by children have not been recalled. A list of recalls can be accessed at www.cpsc.gov. *CFOC 3rd ed. Standard 5.3.1.1. pp. 237-238.*
All walking surfaces, such as walkways, ramps, and decks, should have a non-slip finish and be free of loose material (e.g., gravel, sand), water, and ice. To prevent injuries, including from falls, walking surfaces should be free of holes and abrupt irregularities in the surface. Entrances and exits should be free of hazards to allow safe and timely exit from the building in case of an emergency. CFOC 3rd ed. Standard 5.1.6.4. p. 210.

Compliance Assessment and Guidance
All indoor and outdoor building areas and structures must be in good repair. This includes all indoor and outdoor play equipment and inside and outside entrances, exits, steps, and walkways used by children.

The provider must ensure that no play equipment or equipment component could fail or otherwise cause injury from inadequate maintenance such as:
- Missing, bent, broken, or worn out components
- Loose hardware or missing nuts or bolts
- Excessive wear on any part of the equipment
- Rusted or corroded metal
- Wood that is rough or splintery

If equipment is in a state of disrepair and is no longer sturdy or safe, it should be made inaccessible to children until it can be fixed or discarded.

During and immediately after a snowstorm, the provider will be allowed a reasonable amount of time to remove snow from outdoor exit areas, stairs, and walkways to prevent a buildup of snow and ice.
- In case of emergencies, all walkways, exits, and stairways must be free of ice and snow even if the children will not be going outside.
- If a house has walkways greater than 3 feet wide, the walkways must be cleared to a width of at least 3 feet for a distance of at least 6 feet from the building.

Noncompliance Level
Level 1 Noncompliance if:
- Children were exposed to asbestos.
- A child is unable to use a toilet or handwashing sink when necessary due to equipment failure or breakdown.
- The only toilet in the facility was broken and was not repaired within 1 working day (refer to 90-9(11).

Level 2 Noncompliance if:
- The presence of asbestos was not immediately corrected, but children were not exposed.
- Lack of maintenance could cause equipment failure.
- There is a buildup of ice in entrances, exits, steps, and walkways used by children.
- There is a missing step or unstable stairs that must be used to enter the facility or access the outdoor area.

Level 3 Noncompliance for other ceiling, wall, or flooring hazards that require maintenance including:
- Fiberglass insulation
- Heat vents that are missing covers
- Cracked or damaged flooring that could cause tripping
- Leaking plumbing (with the exception of a leaking faucet).
- An exposed fluorescent light tube with no covering on the fixture.
• Draperies, blinds, or other window coverings require maintenance including torn draperies or broken blinds that a child could become entangled in.
• Wooden equipment that is rough or has splinters.
• Cracks in equipment that could pinch a child’s skin.

(22) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

Rationale / Explanation
Children falling from elevated areas may suffer fatal head injuries. Protective barriers are designed to protect against falls from elevated surfaces. CFOC 3rd ed. Standard 6.1.0.4. pp. 266-267.

Compliance Assessment and Guidance
A licensor will:
• Assess whether there are any indoor or outdoor decks, balconies, or basement stairwells that are accessible to children.
• Measure the height of the deck or balcony and the depth of the stairwell.
• When there is a lip on the edge of the stairwell, measure from the top of that lip down to the bottom of the stairs.
• If the height or depth is 5 feet or more, then measure the height of the barrier.
  - Barriers need to be at least 36 inches high measured from the surface where a person could fall from.

Noncompliance Level
Level 1 Noncompliance if there is:
• A deck or balcony that is 5 feet or higher or an open basement stairwell that is 5 feet or deeper with no protective barrier.

Level 2 Noncompliance if there is:
• A required protective barrier with a gap that is 5 by 5 inches or greater in diameter.
• A required protective barrier that is less than 36 inches high.

(23) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:
(a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;
(b) there is a separate mailing address;
(c) there is a separate entrance for the child care program;
(d) there are no connecting interior doorways that can be used by unauthorized individuals; and
(e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

Rationale / Explanation
It is essential that any area on the provider’s premises must be a safe and healthy environment when accessible to children. This includes apartments, rooms, and areas that are occupied by others, but can be accessed by children in care.
It is also critical to limit who has access to the children in order to ensure the children’s safety, and their physical and mental health, and to protect them from any risk of abuse or neglect. *CFOC 3rd ed. Standard 10.3.3.1. p. 41.*

**Compliance Assessment and Guidance**
When all of the above conditions are met:

- The licensor is not required to inspect the parts of the house that are subdivided and/or rented out, and
- The occupants in the other part of the facility are not required to have background screenings.

To verify compliance with this rule, a licensor will:

- Review the signed lease/rental agreement.
- Confirm that the provider and renter have separate addresses by viewing the addresses on the mailboxes or on mail that is addressed to each person.
- Check that there is a separate entrance to the child care program.
- Confirm that there is no possibility of unauthorized individuals accessing the child care program through an interior doorway.
- Observe or ask how the outdoor area is kept from being accessed by an unauthorized individual.
- If the outdoor area can be accessed or shared, verify that no children are ever in the outdoor area without the provider or a caregiver.

If any of the above requirements are not met, the licensor will:

- Inspect the entire facility including areas that may be subdivided, rented out, or shared.
- Verify on the CCL database that all covered individuals in the facility have passed a background check.
- Issue noncompliance findings to any licensing rule violations.

**Noncompliance Level**
The noncompliance level will be determined based on the specific rule violation.