

40 TAC § 744.2901

Tex. Admin. Code tit. 40, § 744.2901

§ 744.2901. How many square feet of indoor activity space must I have for children?

You must have at least 30 square feet of indoor activity space for each child that you are licensed to serve, unless the operation is exempt based on criteria specified in this division.

40 TAC § 744.2903

Tex. Admin. Code tit. 40, § 744.2903

§ 744.2903. Must I limit the number of children in each room based on the indoor activity space measurements for that room?

The number of children in each room must not routinely exceed what the room measurement will accommodate. However the number of children may exceed what the room measurement will accommodate if it is appropriate given the age of the children using the space, and whether the equipment and furnishings allow the children to safely participate in the activities.

40 TAC § 744.2905

Tex. Admin. Code tit. 40, § 744.2905

§ 744.2905. Do these indoor activity space requirements apply to my operation if it was licensed before September 1, 2010?

(a) Indoor activity space requirements for operations licensed before September 1, 2010, vary based on the following:

(1) Operations licensed as a day-care center before August 31, 1997, must have at least 30 square feet of indoor activity space for each child you are licensed to serve;

(2) Operations licensed as a day-care center or child-care center between August 31, 1997, and September 1, 2010, must have at least 30 square feet of indoor activity space for each child you are licensed to serve;

(3) Operations licensed as kindergarten and nursery schools, or schools: grades kindergarten and above, before September 1, 2003, must have at least 20 square feet of indoor activity space for each child you are licensed to

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serve; and

(4) Operations licensed as a drop-in center or group day-care home before September 1, 2003, must have at least 30 square feet of indoor activity space for each child you are licensed to serve.

(b) The exemptions specified in subsection (a) of this section remain in effect until a permit issued prior to September 1, 2010, is no longer valid.

40 TAC § 744.2907
Tex. Admin. Code tit. 40, § 744.2907

§ 744.2907. How does Licensing determine the indoor activity space?

(a) We determine indoor activity space by:

(1) Measuring all indoor activity space wall to wall on the inside at floor level;

(2) Rounding all measurements to the nearest inch;

(3) Excluding single-use areas. See § 744.105(42) of this title (relating to What do certain words and terms mean in this chapter?) for a definition of single-use areas; and

(4) Excluding floor space occupied by permanent and stationary fixtures, such as bookcases, shelving, and storage/counter space, that is not intended for use by the children.

(b) We use the sum of the measurements to calculate the indoor activity space and to determine the maximum number of children you may care for.

40 TAC § 744.2909
Tex. Admin. Code tit. 40, § 744.2909

§ 744.2909. May other programs use my indoor activity space at the same time I have children in care?

(a) You may share the indoor activity space that is not classroom space with other programs at the same time you

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have children in care, if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following:

- (1) The ages of the children;
 - (2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and
 - (3) The nature of other activities and persons who may be sharing the space.
- (b) You must follow your written plan and submit a copy to Licensing upon request.

40 TAC § 744.2911
Tex. Admin. Code tit. 40, § 744.2911

§ 744.2911. May I care for children above or below ground level?

You must not care for children on any level above or below ground level without written approval from the state or local fire marshal.

40 TAC § 744.2951
Tex. Admin. Code tit. 40, § 744.2951

§ 744.2951. How many square feet of outdoor activity space must I have?

(a) If children are in care for five or more consecutive hours, you must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, or the indoor activity space must allow for room and equipment that permits children the opportunity to engage in age appropriate active play.

(b) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (a) of this section unless the permit issued prior to September 1, 2003, is no longer valid.

(c) As long as children are in care for less than five consecutive hours, you are not required to have outdoor activity space if your program provides only indoor instruction that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency that requires physical activity.

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40 TAC § 744.2953

Tex. Admin. Code tit. 40, § 744.2953

§ 744.2953. Must I fence the outdoor activity space?

Yes. A fence or wall at least four feet high must enclose the outdoor activity space unless you meet one of the following:

(1) Your operation is located at a public school facility operated by the local independent school district; or

(2) The only children using the outdoor activity space are five years old or older.

40 TAC § 744.2955

Tex. Admin. Code tit. 40, § 744.2955

§ 744.2955. How many exits must I have from my fenced outdoor activity space?

Each fenced yard must have at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building.

40 TAC § 744.2957

Tex. Admin. Code tit. 40, § 744.2957

§ 744.2957. May I keep the gates leading into my outdoor activity space locked while children are in care?

Yes, however the locking mechanism must be accessible to all employees at all times. Employees must be able to open the gates immediately in an emergency and satisfactorily demonstrate this ability to Licensing staff upon request.

40 TAC § 744.2959

Tex. Admin. Code tit. 40, § 744.2959

§ 744.2959. Must the outdoor activity space be connected to the operation?

No; however, all outdoor activity areas used by children must be accessible from the operation by a safe route. We must approve a plan to use an outdoor activity space that is not connected to the operation, such as a near-by park, schoolyard, or other alternative. We will consider the following criteria before approving the plan:

(1) Traffic patterns of vehicles and people in the area;

(2) Ages of children in the groups;

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(3) Availability of appropriate equipment;

(4) Usage of the location by other persons when the children would be most likely to use it;

(5) Neighborhood circumstances, hazards, and risks;

(6) Accessibility to children and caregivers on foot;

(7) Reasonable accessibility of restroom facilities; and

(8) Ability to obtain assistance if needed when injury or illness occurs.

40 TAC § 744.2961
Tex. Admin. Code tit. 40, § 744.2961

§ 744.2961. Must I comply with additional requirements if my plan to use an outdoor activity space not connected to my operation is approved by Licensing?

Yes. If we approve the outdoor activity space, you must:

(1) Give parents written notification of the location of the outdoor activity area, upon their child's enrollment;

(2) Develop a written plan to supervise children, both during play and while traveling to and from the outdoor activity space; and

(3) Meet other conditions specified by Licensing staff, if applicable.

40 TAC § 744.2963
Tex. Admin. Code tit. 40, § 744.2963

§ 744.2963. May other programs use my outdoor activity space at the same time I have children in care?

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(a) You may share the outdoor activity space with other programs at the same time you have children in care if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following:

(1) The ages of the children;

(2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and

(3) The nature of other activities and persons who may be sharing the space.

(b) You must follow your written plan and submit a copy to Licensing upon request.

40 TAC § 744.3001
Tex. Admin. Code tit. 40, § 744.3001

§ 744.3001. How many hand-washing sinks must I have in my operation for children's use?

(a) If you are licensed to serve 13 or more children ages five years old and older, unless otherwise specified in this division, you must have one sink for every 20 children.

(b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one sink for every 17 children.

(c) If you are licensed to serve 12 or fewer children, unless otherwise specified in this division, you must have at least one sink available for the children's use.

(d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one sink for every 20 children.

(e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one sink for every 25 children.

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(f) A kindergarten and nursery school, school: grades kindergarten and above, and drop-in center must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid.

**40 TAC § 744.3003
Tex. Admin. Code tit. 40, § 744.3003**

§ 744.3003. Where must I locate the hand-washing sinks for children's use?

Hand-washing sinks must be inside the operation. Children must be able to safely and independently access the sink. Hand-washing sinks must be equipped with soap, running water, and single-use disposable towels or hot-air hand dryers. Refer to Subchapter K of this chapter (relating to Health Practices) for further information on hand washing.

**40 TAC § 744.3005
Tex. Admin. Code tit. 40, § 744.3005**

§ 744.3005. How many toilets am I required to have in my operation?

(a) If you are licensed to serve 13 or more children ages five years and older, you must have one flush toilet for every 20 children.

(b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one flush toilet for every 17 children.

(c) If you are licensed to serve 12 or fewer children, you must have at least one flush toilet available for the children's use.

(d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one flush toilet for every 20 children.

(e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one flush toilet for every 25 children.

(f) An operation licensed before September 1, 2003, must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid.

**40 TAC § 744.3007
Tex. Admin. Code tit. 40, § 744.3007**

§ 744.3007. Where must the toilets be located?

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Toilets must be inside the operation. Children must be able to safely and independently access the toilet. Toilets must be equipped for independent use by children and allow supervision by caregivers, as needed.

40 TAC § 744.3009

Tex. Admin. Code tit. 40, § 744.3009

§ 744.3009. May I count urinals in the ratio of children to toilets?

(a) Urinals may be counted in the ratio of children to toilets, but may not exceed 50% of the total number of toilets.

(b) Restrooms containing urinals must also have flush toilets.

40 TAC § 744.3011

Tex. Admin. Code tit. 40, § 744.3011

§ 744.3011. Do I have to use toilets, sinks and fountains that are child sized?

No. However if you use a sink, urinal, toilet, or drinking fountain that is too high for children to use safely and independently, you must equip it with anchored steps and/or a broad-based platform with a non-slip surface.

40 TAC § 744.3013

Tex. Admin. Code tit. 40, § 744.3013

§ 744.3013. May the doors to the restroom or toilets have locks on them?

Yes. Doors on restrooms and toilets used by children may have locks, although:

(1) Locks must be out of children's reach; or

(2) If locks are within children's reach there must be a way to immediately open the door from the outside in an emergency, and:

(A) The unlocking mechanism must be accessible to all employees at all times and must be demonstrated satisfactorily to Licensing staff upon request; and

(B) An adult must be present in the restroom area when children younger than five years old are using restrooms with door locks within children's reach.

40 TAC § 744.3015

Tex. Admin. Code tit. 40, § 744.3015

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§ 744.3015. May other programs use the toilets and hand washing sinks counted in my indoor activity space at the same time I have children in care?

(a) Yes. You may share the toilets and hand washing sinks counted in your indoor activity space with other programs at the same time you have children in care, provided you:

(1) Ensure adequate facilities are available to children when needed; and

(2) Have a written plan specifying how caregivers will supervise and account for children in your care that addresses:

(A) The ages of the children;

(B) The proximity of restroom facilities, and operation entrances and exits to the children's area; and

(C) The nature of other activities and persons who may be sharing the toilet and hand washing sinks.

(b) You must follow your written plan, and submit a copy to Licensing upon request.

40 TAC § 744.3051
Tex. Admin. Code tit. 40, § 744.3051

§ 744.3051. Must I have a telephone at my operation?

(a) Yes. You must have:

(1) A telephone at your operation with a listed telephone number; or

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(2) Access to a telephone located in the same building for use in an emergency and where a person is available to:

(A) Receive incoming calls to the operation;

(B) Immediately transmit messages regarding children in care to operation caregivers; and

(C) Make outgoing calls for the operation as necessary.

(b) The telephone must not be a coin-operated pay phone.

40 TAC § 744.3071
Tex. Admin. Code tit. 40, § 744.3071

§ 744.3071. May I have indoor lofts?

(a) You may have an indoor loft that is designed and used as an extension of the classroom if you comply with the following safety standards:

(1) Caregivers must be able to adequately supervise children at all times;

(2) Stairs and steps, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

(3) Platforms over 20 inches in height must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped.

(b) If a loft is used as indoor active play space, it must comply with minimum standards as specified in Subchapter N of this chapter (relating to Indoor and Outdoor Active Play Space and Equipment).

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40 TAC § 744.3101

Tex. Admin. Code tit. 40, § 744.3101

§ 744.3101. What minimum safety requirements must my active play equipment meet?

(a) Indoor and outdoor active play equipment used both at and away from the operation must be safe for the children as follows:

(1) The indoor and outdoor active play equipment must be arranged so that caregivers can adequately supervise children at all times;

(2) The design, scale, and location of the equipment must be appropriate for the body size and ability of the children using the equipment;

(3) Equipment must not have openings or angles that can entrap a child's body or body part that has penetrated the opening;

(4) Equipment must not have protrusions or openings that can entangle something around a child's neck or a child's clothing;

(5) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning;

(6) All anchoring devices must be placed below the level of the playing surface to prevent tripping or injury resulting from a fall;

(7) Equipment must not have exposed pinch, crush, or shear points, on or underneath it;

(8) Climbing equipment, swings, or inflatables must not be installed over asphalt or concrete unless the asphalt or concrete is covered with properly installed unitary surfacing materials as specified in § 744.3259 of this title (relating to What are unitary surfacing materials?) and § 744.3261 of this title (relating to How should unitary

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surfacing materials be installed?);

(9) Porches or platforms more than 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that surround the elevated surface except for entrances and exits and that prevent children from crawling over or through the barrier;

(10) Stairs and steps on climbing equipment, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

(11) If you are licensed to provide only care in a public school facility operated by the local independent school district, you must inform parents in writing at the time they enroll their child if the active play equipment or space you plan to use at the public school facility does not meet Licensing standards specified in this subchapter. Otherwise, children must not be allowed to use equipment that does not meet Licensing standards.

(b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as gym floors and mats, platforms and steps used in gymnastics programs, are not subject to the safety requirements specified in subsection (a)(8)-(10) of this section provided:

(1) The equipment or surfacing is installed and used according to manufacturer's instructions or industry standards;

(2) A child's use of the equipment is supervised by trained personnel;

(3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

(4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

40 TAC § 744.3103
Tex. Admin. Code tit. 40, § 744.3103

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§ 744.3103. What additional safety requirements must my indoor equipment meet?

Indoor equipment used both at and away from the operation must be safe for the children as follows:

(1) Floor surfaces under indoor equipment designed for climbing must have a unitary shock-absorbing surface that will effectively cushion the fall of a child. The surface must be installed in the use zone and maintained according to the manufacturer's directions. See § 744.3201 of this title (relating to What does Licensing mean by the term "use zone?"). Carpeting alone, even if it is installed over thick padding, is not an acceptable resilient surface under indoor climbing equipment;

(2) Platforms over 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped; and

(3) If your program uses specialized equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs:

(A) The equipment must be installed and used according to manufacturer's instructions and supervised by trained personnel;

(B) The safety practices employed by the operation and the risks associated with the use of each type of equipment must be thoroughly outlined in your policies and procedures; and

(C) Parents must provide written consent before children may use the equipment. Written consent must be kept on file at the operation in the child's record.

40 TAC § 744.3105
Tex. Admin. Code tit. 40, § 744.3105

§ 744.3105. Are there some types of equipment that children must not use?

(a) Yes. Children must not use the following types of equipment at or away from the operation:

(1) Heavy swings made of metal or that have metal components, such as animal figure swings;

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(2) Equipment that allows children to fall inside the structure and onto other parts of the structure, such as certain styles of monkey bars or jungle gyms;

(3) Trampolines, except those less than four feet in diameter that are no higher than 12 inches above a properly installed and maintained resilient surface;

(4) Swinging exercise rings and trapeze bars on long chains or swinging rope;

(5) Multiple occupancy swings, such as teeter-totters, gliders, or chair swings (other than tire swings); or

(6) Swinging gates and giant strides.

(b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as trampolines and exercise rings and ropes used in gymnastics programs, may be used if:

(1) The equipment is installed and used according to manufacturer's instructions;

(2) A child's use of the equipment is supervised by trained personnel;

(3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

(4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

40 TAC § 744.3107
Tex. Admin. Code tit. 40, § 744.3107

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§ 744.3107. Are there additional equipment restrictions for children younger than five years of age?

(a) Yes. Children younger than five years of age must not be allowed to use the following pieces of equipment at or away from the operation:

(1) Free standing arch climbers;

(2) Free standing climbing pieces with flexible parts;

(3) Fulcrum seesaws;

(4) Log rolls;

(5) Spiral slides with more than one 360 degree turn; or

(6) Track rides.

(b) In addition, children younger than four years of age must not be allowed to use the following pieces of equipment at or away from the operation:

(1) Chain or cable walks;

(2) Horizontal ladders;

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(3) Vertical slide poles; or

(4) Over-head swinging rings and parallel bars.

(c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as swinging rings and parallel bars used in gymnastics programs, may be used if:

(1) The equipment is installed and used according to manufacturer's instructions;

(2) A child's use of the equipment is supervised by trained personnel;

(3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

(4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

40 TAC § 744.3109
Tex. Admin. Code tit. 40, § 744.3109

§ 744.3109. What is the maximum height of the highest designated play surface allowed?

(a) The maximum height of the highest designated play surface on active play equipment is based on the age of children who will be using the equipment.

(b) The maximum height allowed is:

(1) Five feet for equipment designed to be used by children younger than five years old; or

(2) Seven feet for equipment designed to be used by children who are at least five years old.

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(c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs, may exceed the maximum height allowed if:

(1) The equipment is installed and used according to manufacturer's instructions;

(2) A child's use of the equipment is supervised by trained personnel;

(3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

(4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

40 TAC § 744.3111
Tex. Admin. Code tit. 40, § 744.3111

§ 744.3111. Do the height requirements apply to my operation if it was licensed before September 1, 2010?

(a) If you were licensed after September 1, 2003, and before September 1, 2010, and unless you meet one of the conditions specified in subsection (b) of this section, the maximum height of active play equipment allowed is:

(1) Six feet for equipment designed to be used by children under the age of five years old; or

(2) Eight feet for equipment designed to be used by children ages five years old and older.

(b) An operation licensed before September 1, 2010, must comply with the equipment height requirements specified in this division if the operation re-designs the existing playground or adds new playground equipment. The permit holder must meet equipment height requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request.

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40 TAC § 744.3113

Tex. Admin. Code tit. 40, § 744.3113

§ 744.3113. What special maintenance procedures must I follow for my active play space and equipment?

(a) The director or designee must inspect the active play space and equipment daily before children begin to play to ensure there are no hazards present.

(b) The director or designee must conduct at least monthly inspections of the active play space and equipment, utilizing a general maintenance checklist or safety checklist that includes checking the equipment and surfacing material for normal wear and tear, broken or missing parts, debris or foreign objects, drainage problems, or other hazards.

(c) The director or designee must ensure hazards or defects identified during inspections are removed or repaired promptly, and must arrange for protection of the children or prohibit use of hazardous equipment until the hazards can be removed or repairs can be made.

(d) You must keep maintenance inspections and repair records at the operation for review during your hours of operation for at least the previous three months.

40 TAC § 744.3151

Tex. Admin. Code tit. 40, § 744.3151

§ 744.3151. What are the safety requirements for swings?

(a) All swing seats must be constructed of durable, lightweight, rubber, or plastic material.

(b) Edges of all swing seats must be smooth or rounded and have no protrusions.

(c) Swings must not be attached to a composite play structure.

(d) A full bucket seat swing, intended for children under four years of age to use with adult assistance, may be used provided the distance between the bottom of the unoccupied swing seat is at least 24 inches above the protective surfacing.

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40 TAC § 744.3153

Tex. Admin. Code tit. 40, § 744.3153

§ 744.3153. Are there additional safety requirements for tire swings or other multi-axis swings?

Yes. Tire swings must:

(1) Not be made from heavy truck tires, or tires with exposed steel-belted radials;

(2) Not be suspended from a composite structure or with other swings in the same swing bay;

(3) Have drainage holes drilled in the underside of the tire and maintained to facilitate water drainage; and

(4) Have a minimum clearance between the seating surface of a tire swing and the uprights of the supporting structure of 30 inches or more when the tire is in a position closest to the support structure.

40 TAC § 744.3201

Tex. Admin. Code tit. 40, § 744.3201

§ 744.3201. What does Licensing mean by the term “use zone”?

The use zone is the surface area under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. Other than the equipment itself, the use zone must be free of obstacles that a child could run into or fall on top of and be injured.

40 TAC § 744.3203

Tex. Admin. Code tit. 40, § 744.3203

§ 744.3203. How do I measure the use zone for stationary equipment?

The use zone for stationary equipment, excluding slides and soft contained play equipment, must extend a minimum of six feet in all directions from the perimeter of the equipment. Use zones for stationary equipment must not overlap other use zones.

40 TAC § 744.3205

Tex. Admin. Code tit. 40, § 744.3205

§ 744.3205. How do I measure the use zone for slides?

(a) The use zone in front of the access and to the sides of a slide must extend a minimum of six feet from the perimeter of the equipment.

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(b) For slides six feet high or less, the use zone in front of the exit of a slide must extend at least six feet.

(c) For slides greater than six feet high, the use zone in front of the exit of a slide must be equal to the distance from the slide platform to the protective surfacing up to a maximum of eight feet.

(d) The use zone in front of the slide exit must not overlap the use zone of any other equipment.

40 TAC § 744.3207
Tex. Admin. Code tit. 40, § 744.3207

§ 744.3207. How do I measure the use zone for to-fro swings?

(a) The use zone to the front and rear of to-fro swings (single-axis swings) must extend twice the height of the vertical distance from the swing beam to the protective surfacing below.

(b) The use zone to the front and rear of the to-fro swing must not overlap any other use zone.

(c) The use zone around the sides of the to-fro swing structure (frame which supports the swings) must be at least six feet and may overlap the use zone of an adjacent swing structure.

40 TAC § 744.3209
Tex. Admin. Code tit. 40, § 744.3209

§ 744.3209. How do I measure the use zone for tire swings?

(a) The use zone for tire swings or other multi-axis swings must extend in all directions for a distance equal to the distance from the swing beam to the top of the sitting surface of the tire, plus six feet.

(b) The use zone specified in subsection (a) of this section must not overlap any other use zone.

(c) The use zone on the sides of the tire swing support structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

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40 TAC § 744.3211

Tex. Admin. Code tit. 40, § 744.3211

§ 744.3211. How do I measure the use zone for bucket swings?

(a) The use zone to the front and rear of the bucket swing must be at least two times the vertical distance from the swing beam to the top of the swing-sitting surface.

(b) The use zone specified in subsection (a) of this section must not overlap any other use zone.

(c) The use zone on the sides of the bucket swing structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

40 TAC § 744.3213

Tex. Admin. Code tit. 40, § 744.3213

§ 744.3213. How do I measure the use zone for rotating or rocking equipment?

(a) The use zone for rotating or rocking equipment on which the child sits must be at least six feet from the perimeter when not in use.

(b) The use zone for rotating or rocking equipment or track rides on which the child stands or rides must be at least seven feet from the perimeter of the equipment when not in use.

(c) The use zone for rocking and rotating equipment must not overlap any other use zone.

40 TAC § 744.3215

Tex. Admin. Code tit. 40, § 744.3215

§ 744.3215. Do the use zone requirements apply to my operation if it was licensed before September 1, 2003?

(a) If you were licensed before September 1, 2003, you must at least maintain the following use zones, unless you meet one of the conditions specified in subsection (b) of this section:

(1) Four feet from climbing structures;

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(2) Five feet from the bottom of a slide. The other parts of the slide are considered a climbing structure;

(3) Seven feet plus the length of a swing's chain from the point of suspension; and

(4) Seven feet from a merry-go-round or other revolving devices.

(b) An operation licensed before September 1, 2003, must comply with the use zone requirements specified in this division, under the following circumstances:

(1) An operation re-designs the existing playground or adds new playground equipment. The permit holder must meet use zone requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request; or

(2) Your existing permit is no longer valid.

40 TAC § 744.3251
Tex. Admin. Code tit. 40, § 744.3251

§ 744.3251. What type of surfacing must I have under my active play equipment?

(a) There must be loose-fill surfacing material or unitary surfacing material in the use zones for all climbing, rocking, rotating, bouncing, or moving equipment, slides, and swings.

(b) The height of the highest designated play surface on the equipment will determine the type and depth of loose materials or the attenuation rating (thickness) of the unitary materials.

40 TAC § 744.3253
Tex. Admin. Code tit. 40, § 744.3253

§ 744.3253. What are acceptable loose-fill surfacing materials?

Loose-fill surfacing materials include, but are not limited to, loose particles such as sand, pea gravel, shredded wood products, and shredded rubber.

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40 TAC § 744.3255

Tex. Admin. Code tit. 40, § 744.3255

§ 744.3255. How should outdoor loose-fill surfacing materials be installed?

(a) If you use loose-fill surfacing materials in your outdoor active play space, you must install and maintain nine inches or more of uncompressed loose-fill material in the use zones. However, if you were licensed before September 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until September 1, 2015; after which date you must maintain at least nine inches of uncompressed loose-fill surfacing materials.

(b) You must not install loose-fill surfacing materials over concrete or asphalt.

(c) You must mark all equipment support posts to indicate the depth at which the loose-fill surfacing material must be maintained under and around the equipment.

(d) You must ensure the loose-fill materials are maintained at the proper depth at all times.

(e) Loose-fill surfacing materials must not be used indoors.

40 TAC § 744.3257

Tex. Admin. Code tit. 40, § 744.3257

§ 744.3257. Repealed eff. June 1, 2014

40 TAC § 744.3259

Tex. Admin. Code tit. 40, § 744.3259

§ 744.3259. What are unitary surfacing materials?

Unitary surfacing materials are manufactured materials including rubber tiles, mats, or poured-in-place materials cured to form a unitary shock-absorbing surface.

40 TAC § 744.3261

Tex. Admin. Code tit. 40, § 744.3261

§ 744.3261. How should unitary surfacing materials be installed?

(a) If you use unitary materials, they must be installed and maintained according to manufacturer's specifications.

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(b) Unitary materials may be installed over concrete or asphalt only if recommended by the manufacturer.

40 TAC § 744.3263
Tex. Admin. Code tit. 40, § 744.3263

§ 744.3263. What documentation must I keep at the operation if I use unitary surfacing materials?

If you use unitary surfacing materials, you must have test data from the manufacturer showing the impact rating of the material (the maximum height of equipment that may be installed over the surfacing material), and installation and maintenance requirements. This documentation must be at the operation and made available for review by parents and Licensing staff upon request during your hours of operation.

40 TAC § 744.3301
Tex. Admin. Code tit. 40, § 744.3301

§ 744.3301. What is soft contained play equipment?

Soft contained play equipment is a play structure that:

(1) Is fully enclosed with pliable material such as net, plastic, or fabric;

(2) The user enters to access one or more play components; and

(3) Allows caregivers to supervise children as specified in § 744.1205 of this title (relating to What does Licensing mean by “supervise children at all times?”).

40 TAC § 744.3303
Tex. Admin. Code tit. 40, § 744.3303

§ 744.3303. Are there additional safety requirements for soft contained play equipment?

Yes. Soft contained play equipment must:

(1) Not have to-fro, bucket, or tire swings attached inside or outside of the structure;

(2) Have no more than a 24-inch difference in height between two connecting platforms;

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(3) Have use zones as outlined in § 744.3305 of this title (relating to How do I measure the use zone for soft contained play equipment?) that are free of obstacles and covered with unitary surfacing material;

(4) Be installed, maintained and cleaned according to manufacturer's instructions; and

(5) Include closer supervision when in use by requiring at least one caregiver to be positioned at each level of the play area.

40 TAC § 744.3305
Tex. Admin. Code tit. 40, § 744.3305

§ 744.3305. How do I measure the use zone for soft contained play equipment?

(a) The use zone for entrances and exits to the soft contained play equipment, excluding slide exits, is a minimum of five feet from all portions of the entrance and exit which are outside of the contained area of the equipment.

(b) The use zone in front of slide exits must extend a minimum of five feet if the slide run-out is 36 inches or greater. If the slide run-out is less than 36 inches, the use zone at the end of the slide must be six feet. In addition, this use zone may not overlap with any other use zones.

(c) Entrances and exits that terminate inside of the soft contained play equipment are exempt from use zone requirements.

(d) External portions of the soft contained play equipment that contain no designated play surfaces and serve only to enclose the equipment are exempt from use zone requirements.

(e) The critical height of resilient surfacing material must be equal to the highest designated play surface outside of the contained area of the equipment or for one foot, which ever is greater.

40 TAC § 744.3351
Tex. Admin. Code tit. 40, § 744.3351

§ 744.3351. May I use inflatable active play equipment?

Yes, you may use inflatable equipment both at and away from your operation as long as:

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(1) Enclosed inflatables (such as bounce houses or moon walks) are used by one child at a time;

(2) Open inflatables (such as obstacle courses, slides, or games) are used according to the manufacturer's instructions; and

(3) Inflatables that include water activity also comply with all applicable requirements in Subchapter O of this title (relating to Swimming Pools and Wading/Splashing Pools).

40 TAC § 744.3401
Tex. Admin. Code tit. 40, § 744.3401

§ 744.3401. What safety precautions must I follow when children in my care use a swimming pool?

In addition to complying with the child/caregiver ratios specified in § 744.1905 of this title (relating to What are the child/caregiver ratios for swimming activities?) and other safety requirements specified in § 744.1907 of this title (relating to Must a certified lifeguard be on duty when children are swimming in more than two feet of water?) and § 744.1911 of this title (relating to Must persons who are counted in the child/caregiver ratio during swimming know how to swim?), you must comply with the following safety precautions when any child uses a swimming pool (more than two feet of water) both at and away from your operation:

(1) A minimum of two life-saving devices must be available;

(2) One additional life-saving device must be available for each 2,000 square feet of water surface;

(3) Drain grates must be in place, in good repair, and must not be able to be removed without using tools;

(4) Pool chemicals and pumps must be inaccessible to any child;

(5) Machinery rooms must be locked when any child is present;

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(6) Employees must be able to clearly see all parts of the swimming area;

(7) The bottom of the pool must be visible at all times;

(8) An adult must be present who is able to immediately turn off the pump and filtering system when any child is in a pool; and

(9) All indoor/outdoor areas must be free of furniture and equipment that any child could use to scale a fence or barrier or release a lock.

40 TAC § 744.3403
Tex. Admin. Code tit. 40, § 744.3403

§ 744.3403. How should the swimming pool be built and maintained?

Swimming pools used both at and away from the operation must be built and maintained according to the standards of the Department of State Health Services for public pools and any other applicable state or local regulations.

40 TAC § 744.3405
Tex. Admin. Code tit. 40, § 744.3405

§ 744.3405. Do the same safety precautions apply for above-ground pools?

Yes. Above-ground pools must meet all pool safety requirements specified in this subchapter and must have a barrier that prevents a child's access to the pool.

40 TAC § 744.3407
Tex. Admin. Code tit. 40, § 744.3407

§ 744.3407. Must I have a fence around a swimming pool at my operation?

(a) You must enclose a swimming pool at your operation with a six-foot fence or wall that prevents children's access to the pool.

(b) Fence gates leading to the pool area must have self-closing and self-latching hardware out of children's reach. Gates must be locked when the pool is not in use.

(c) Doors from the operation leading to the pool area must have a lock out of children's reach that can only be opened by an adult.

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(d) These doors and gates must not be designated as fire and emergency evacuation exits.

40 TAC § 744.3409
Tex. Admin. Code tit. 40, § 744.3409

§ 744.3409. Does having a fence relieve me of the duty to supervise children's access to the pool?

No. Although a fence and locked access provides a layer of protection for a child who strays from supervision and may deter some children from entering the pool area, these do not replace the need for constant adult supervision and monitoring of safety features to protect children from unsupervised access to the pool.

40 TAC § 744.3411
Tex. Admin. Code tit. 40, § 744.3411

§ 744.3411. What are the safety requirements for wading pools?

(a) Wading/splashing pools (two feet of water or less) at your operation must be:

(1) Stored out of children's reach when not in use;

(2) Drained at least daily and sanitized; and

(3) Stored so they do not hold water.

(b) You must comply with the safety precautions specified in § 744.3401 of this title (relating to What safety precautions must I follow when children in my care use a swimming pool?) when using wading/splashing pools away from your operation.

40 TAC § 744.3413
Tex. Admin. Code tit. 40, § 744.3413

§ 744.3413. Are there specific safety requirements for sprinkler play?

You must ensure that no child uses sprinkler equipment on or near a hard, slippery surface, such as a driveway, sidewalk, or patio. You must store sprinkler equipment and water hoses out of children's reach when not in use.

40 TAC § 744.3415
Tex. Admin. Code tit. 40, § 744.3415

§ 744.3415. Can children in my care swim in a body of water other than a swimming pool, such as a

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lake, pond, or river?

No, you must not allow children to swim in a lake, pond, river, or a body of water other than a swimming pool or wading pool that complies with the rules specified in this subchapter.

40 TAC § 744.3501
Tex. Admin. Code tit. 40, § 744.3501

§ 744.3501. Must my operation have an annual fire inspection?

(a) Your operation must have a fire inspection before we issue your initial permit and at least once every 12 months, unless your operation is in a public school facility operated by the local independent school district.

(b) If an inspection is required, a state or local fire marshal must conduct the inspection. If an inspection is not available, you must provide documentation of this from a state or local fire marshal or county judge.

40 TAC § 744.3503
Tex. Admin. Code tit. 40, § 744.3503

§ 744.3503. How do I document that a fire inspection has been completed?

If required, you must keep a copy of the most recent fire-inspection report, letter, or checklist at the operation during your hours of operation to verify the inspection date and findings. The report must include the name and telephone number of the inspector.

40 TAC § 744.3505
Tex. Admin. Code tit. 40, § 744.3505

§ 744.3505. Must I make all corrections specified in the fire-inspection report?

If required, you must comply with all corrections, restrictions, or conditions specified by the inspector in the fire inspection report, letter, or checklist.

40 TAC § 744.3551
Tex. Admin. Code tit. 40, § 744.3551

§ 744.3551. What is an emergency preparedness plan?

An emergency preparedness plan is designed to ensure the safety of children during an emergency by addressing staff responsibility and facility readiness with respect to emergency evacuation and relocation. The plan addresses the types of emergencies most likely to occur in your area including but not limited to natural events such as tornadoes, floods or hurricanes, health events such as medical emergencies, communicable disease outbreak, and human-caused events such as intruder with weapon, explosion, or chemical spill.

40 TAC § 744.3553
Tex. Admin. Code tit. 40, § 744.3553

§ 744.3553. What must my emergency preparedness plan include?

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Your emergency preparedness plan must include written procedures for:

(1) Evacuation, including:

(A) That in an emergency, the first responsibility of staff is to move the children to a designated safe area or alternate shelter known to all employees, caregivers, and volunteers;

(B) How children will be relocated to the designated safe area or alternate shelter, including but not limited to specific procedures for evacuating children with limited mobility or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairments;

(C) An emergency evacuation and relocation diagram as outlined in § 744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

(D) Name and address of the alternate shelter away from the operation you will use as needed; and

(E) How children in attendance at the time of the emergency will be accounted for at the designated safe area or alternate shelter.

(2) Communication, including:

(A) The emergency telephone number that is on file with us;

(B) How you will communicate with local authorities (such as fire, law enforcement, emergency medical services, health department), parents and us; and

(3) How your staff will evacuate with the essential documentation including:

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(A) Parent and emergency contact telephone numbers for each child in care;

(B) Authorization for emergency care for each child in care; and

(C) The child tracking system information for children in care.

40 TAC § 744.3555
Tex. Admin. Code tit. 40, § 744.3555

§ 744.3555. With whom must I share this plan?

(a) You must share the emergency preparedness plan with employees during orientation as outlined in § 744.1303 of this title (relating to What should orientation to my operation include?).

(b) Parents must be generally informed of your emergency procedures; and upon request, the emergency preparedness plan must be available for review by parents.

40 TAC § 744.3557
Tex. Admin. Code tit. 40, § 744.3557

§ 744.3557. Who must coordinate the implementation of an emergency preparedness plan?

(a) The director is responsible for implementing the emergency preparedness plan.

(b) The director may also designate additional employees to be in charge during an emergency evacuation and relocation that occurs when the director is not at the operation.

40 TAC § 744.3559
Tex. Admin. Code tit. 40, § 744.3559

§ 744.3559. Must I practice my emergency preparedness plans?

The following components of your operation's emergency preparedness plans must be practiced as specified below:

(1) You must practice a fire drill every month. The children must be able to safely exit the building within three minutes;

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(2) You must practice a severe weather drill at least once every three months; and

(3) You must document these drills, including the date of the drill, time of the drill, and length of time for the evacuation or relocation to take place.

**40 TAC § 744.3561
Tex. Admin. Code tit. 40, § 744.3561**

§ 744.3561. Must I have an emergency evacuation and relocation diagram?

(a) Yes. Your emergency evacuation and relocation diagram must be on file at the operation and must show the following:

(1) A floor plan of your operation;

(2) Two exit paths from each room, unless a room opens directly to the outdoors at ground level;

(3) The designated location outside of the operation where all caregivers and children meet to ensure everyone has exited the operation safely; and

(4) The designated location inside the operation where all caregivers and children take shelter from threatening weather.

(b) You must post an emergency evacuation and relocation plan in each room the children use. You must post the plan in a prominent place near the entrance and/or exit of the room.

**40 TAC § 744.3563
Tex. Admin. Code tit. 40, § 744.3563**

§ 744.3563. How many exits must my operation have?

(a) The operation must have at least two exits to the outside that are located in distant parts of each building.

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- (b) If any doors open into a fenced yard, the children must be able to open the doors easily from the inside.

- (c) You may not count doors that are blocked or locked as exits.

- (d) An exit through a kitchen or other hazardous area may not be one of the required exits unless the state or local fire marshal specifically approves in writing.

- (e) Doors and gates leading into a pool area may not be counted as an exit.

- (f) A window may be used as a designated fire exit only if all children and caregivers are physically able to exit through the window to the ground outside safely and quickly.

**40 TAC § 744.3565
Tex. Admin. Code tit. 40, § 744.3565**

§ 744.3565. Must I have emergency lighting in case of an emergency evacuation?

Yes. You must have a source of emergency lighting that is approved by the state or local fire marshal, or battery-powered lighting, available in each classroom in case of electrical failure.

**40 TAC § 744.3601
Tex. Admin. Code tit. 40, § 744.3601**

§ 744.3601. Must my operation have a fire-extinguishing system?

Your operation must have a fire-extinguishing system. This may be a sprinkler system and/or fire extinguishers. If your program is located in a public school facility operated by the local school district, the fire-extinguishing system utilized by the school complies with this standard.

**40 TAC § 744.3603
Tex. Admin. Code tit. 40, § 744.3603**

§ 744.3603. Who must approve my fire-extinguishing system?

The state or local fire marshal must approve a sprinkler system and/or fire extinguishers in your operation. If an inspection is not available, you must have at least one fire extinguisher rated 3A-40BC in the operation.

**40 TAC § 744.3605
Tex. Admin. Code tit. 40, § 744.3605**

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§ 744.3605. Where must I mount fire extinguishers?**

You must mount the fire extinguisher on the wall by a hanger or bracket. The top of the extinguisher must be no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If the state or local fire marshal has different mounting instructions, you may follow those instructions. The fire extinguisher must be readily available for immediate use by employees and caregivers.

**40 TAC § 744.3607
Tex. Admin. Code tit. 40, § 744.3607**

§ 744.3607. How often must I inspect and service the fire extinguisher(s)?

(a) The director or designee must inspect fire extinguisher(s) monthly. The date of the inspection and the name of the employee must be recorded.

(b) Fire extinguishers must be serviced as required by manufacturer's instructions, or as required by the state or local fire marshal.

**40 TAC § 744.3609
Tex. Admin. Code tit. 40, § 744.3609**

§ 744.3609. How often must I inspect a sprinkler system?

The system monitoring company or the state or local fire marshal must test sprinkler systems at least annually. You must keep the most recent inspection report at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

**40 TAC § 744.3611
Tex. Admin. Code tit. 40, § 744.3611**

§ 744.3611. Must my operation have a smoke-detection system?

(a) Your operation must have a working smoke-detection system. This may be an electronic alarm and smoke-detection system, or individual electric or battery-operated smoke detectors located in each room used by children, or both.

(b) If your operation is located in a public school facility operated by the local independent school district, the smoke-detection system utilized by the school complies with this standard.

**40 TAC § 744.3613
Tex. Admin. Code tit. 40, § 744.3613**

§ 744.3613. Who must approve my operation's smoke-detection system?

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The state or local fire marshal must approve electronic alarm and smoke-detection systems. If an inspection is not available, you must have at least one working smoke detector in each room used by children.

**40 TAC § 744.3615
Tex. Admin. Code tit. 40, § 744.3615**

§ 744.3615. How often must I have an electronic smoke alarm system tested?

The monitoring company or the state or local fire marshal must test an electronic smoke alarm system at least annually. You must keep documentation of the inspection at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

**40 TAC § 744.3617
Tex. Admin. Code tit. 40, § 744.3617**

§ 744.3617. How must smoke detectors be installed at my operation?

If you use smoke detectors, they must be installed and maintained according to the manufacturer's instructions or in compliance with the state or local fire marshal's instructions.

**40 TAC § 744.3619
Tex. Admin. Code tit. 40, § 744.3619**

§ 744.3619. How often must the smoke detectors at my operation be tested?

The director or designee must test all smoke detectors monthly. The date of the test and the name of the employee who does the testing must be documented and kept at the operation for review during your hours of operation.

**40 TAC § 744.3651
Tex. Admin. Code tit. 40, § 744.3651**

§ 744.3651. Must my operation be inspected for gas leaks?

If your operation uses natural or liquid propane (LP) gas, your operation must be inspected for gas leaks before we issue your initial permit, and once every two years after your permit is issued, unless your operation is located in a public school building operated by the local independent school district.

**40 TAC § 744.3653
Tex. Admin. Code tit. 40, § 744.3653**

§ 744.3653. Who must conduct the inspection for gas leaks?

(a) If your operation uses natural gas, you must have your operation inspected for gas leaks by a licensed plumber or a gas company official.

(b) If your operation uses liquid propane (LP)-gas, you must have your LP-gas system inspected for proper installation and leaks by a licensed LP-gas servicing company or licensed plumber who is also licensed with the LP-gas section of the Texas Railroad Commission.

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40 TAC § 744.3655

Tex. Admin. Code tit. 40, § 744.3655

§ 744.3655. How do I document that a gas leak inspection has been completed?

A written gas inspection report must show your gas system is free of leaks and must indicate the date of the inspection, as well as the name and telephone number of the inspector. You must keep the most recent inspection report on file at your operation.

40 TAC § 744.3657

Tex. Admin. Code tit. 40, § 744.3657

§ 744.3657. Must I make all corrections specified in the gas inspection report?

You must comply with all corrections, conditions, or restrictions specified in the gas inspection report within the timeframes specified by the inspector.

40 TAC § 744.3701

Tex. Admin. Code tit. 40, § 744.3701

§ 744.3701. What steps must I take to ensure that heating devices do not present hazards to children?

- (a) Gas appliances must have metal tubing and connections, be in good repair, and be free from leaks.
- (b) Open flame heaters (heaters where the flame can be easily touched or accessed) are prohibited.
- (c) Space heaters must be enclosed and have the seal of approval of a United States test laboratory or be approved by the state or local fire marshal.
- (d) You must safeguard floor and wall furnace grates, steam and hot water pipes, and electric space heaters so that children do not have access to them.
- (e) Liquid fuel heaters are prohibited.
- (f) Gas fuel heaters, fireplaces, and wood-burning stoves must be properly vented to the outside.

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(g) If you use a fireplace, wood-burning stove, or space heater, you must install a screen or guard with sufficient strength to prevent children from falling into the fire or against the stove or heater.

**40 TAC § 744.3751
Tex. Admin. Code tit. 40, § 744.3751**

§ 744.3751. Must my operation have a carbon monoxide detection system?

Your operation must be equipped with a working carbon monoxide detection system, unless it is located in a school facility that complies:

(1) With the school facility standards adopted by the commissioner of education under the Education Code, § 46.008; or

(2) With standards adopted by the board of a local school district that are similar to those described in paragraph (1) of this section.

**40 TAC § 744.3753
Tex. Admin. Code tit. 40, § 744.3753**

§ 744.3753. What type of carbon monoxide detection system must I install?

You must install:

(1) Individual electric (plug-in or hardwire) or battery-operated carbon monoxide detectors that meet Underwriters Laboratories Inc. requirements (UL-Listed); or

(2) An electronic carbon monoxide detection system connected to an electronic alarm/smoke detection system that is UL-Listed.

**40 TAC § 744.3755
Tex. Admin. Code tit. 40, § 744.3755**

§ 744.3755. How many carbon monoxide detectors must be installed in my operation?

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(a) If you use electric or battery-operated carbon monoxide detectors:

(1) At least one detector must be installed on every level of each building in the child-care operation; and

(2) The detector(s) must be installed in compliance with the state or local fire marshal's instructions.

(b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, the system must be installed according to the state or local fire marshal's instructions.

**40 TAC § 744.3757
Tex. Admin. Code tit. 40, § 744.3757**

§ 744.3757. How often must I inspect and service the carbon monoxide detection system?

(a) If you use electric or battery-operated carbon monoxide detectors, you must:

(1) Install a new battery in each battery-operated detector at least annually;

(2) Test all detectors monthly;

(3) Document the date of each monthly test, date of each installation of new batteries, and the name of the employee who does each testing or installment of new batteries; and

(4) Keep this documentation at the operation for review during your hours of operation.

(b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, you must:

(1) Ensure the system monitoring company or the state or local fire marshal tests the system at least annually;

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- (2) Keep the most recent inspection report at the operation for review during your hours of operation;
- (3) Ensure the report includes the date of the inspection and the inspector's name and telephone number; and
- (4) Make any corrections required in the report.

40 TAC § 744.3801
Tex. Admin. Code tit. 40, § 744.3801

§ 744.3801. What types of transportation does Licensing regulate?

We regulate any transportation provided by or for the operation, including but not limited to, transportation between home and school, between school and the operation, the operation and home, the operation or school and field trip locations or other drop off locations, authorized by the parent.

40 TAC § 744.3803
Tex. Admin. Code tit. 40, § 744.3803

§ 744.3803. What type of vehicle may I use to transport children?

(a) We do not regulate the type of vehicle you use to transport children, although we recommend that you check with the Texas Department of Motor Vehicles or refer to the federal motor vehicle safety standards regulating transportation to and from school and your operation.

(b) For the purpose of this chapter, we categorize vehicle types as:

(1) General purpose vehicle--passenger vehicles as defined in the Texas Transportation Code § 545.412, and buses that do not meet the federal motor vehicle safety standards for school buses or multi-function school activity buses (MFSAB);

(2) Small school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a gross vehicle weight rating (GVWR) of 10,000 pounds or less; and

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(3) Large school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a GVWR of greater than 10,000 pounds.

(c) All vehicles must be maintained in safe operating condition at all times.

**40 TAC § 744.3805
Tex. Admin. Code tit. 40, § 744.3805**

§ 744.3805. What safety precautions must I take when loading and unloading children from the vehicle?

You must take the following precautions when loading and unloading children from any vehicle, including any type of bus:

(1) You must load and unload children at the curbside of the vehicle or in a protected parking area or driveway;

(2) You must not allow a child to cross a street unless the child is accompanied by an adult anytime before entering or after leaving a vehicle;

(3) You must account for all children exiting the vehicle before leaving the vehicle unattended; and

(4) You must never leave a child unattended in a vehicle.

**40 TAC § 744.3807
Tex. Admin. Code tit. 40, § 744.3807**

§ 744.3807. What child safety restraint system must I use when I transport children?

(a) You must secure each child in a rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter.

(b) All child passenger safety restraint systems must meet federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration, and must be properly secured in the vehicle according to manufacturer's instructions.

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(c) A child 12 years old or younger must not ride in the front seat of a vehicle.

(d) The following safety restraint devices for a child must be used when the vehicle is on and during all times when the vehicle is in motion:

Figure: 40 TAC §744.3807(d)

If the child is...	Being transported in this type of vehicle as specified in §746.5603(b) of this title (relating to What type of vehicle may I use to transport children?)...	Then the child must be secured in...
(1) Three years of age and weighs more than 20 pounds	All vehicles	A rear-facing or forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions;
(2) Four years of age and weighs 40 pounds or less	(A) General purpose vehicle and small school bus	A forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions;
	(B) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(3) Four years of age, weighs more than 40 pounds, and is less than four feet, nine inches in height; or five years through seven years of age, regardless of weight, and is less than four feet, nine inches in height	(A) General purpose vehicle	A forward-facing child safety seat, booster seat, safety vest or harness according to the manufacturer's instructions;
	(B) Small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
	(C) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(4) Four years through seven years of age and four feet, nine inches in height or taller	(A) General purpose vehicle	A booster seat according to the manufacturer's instructions or a properly fitting safety belt anywhere the child sits in the vehicle;
	(B) Small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
	(C) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(5) Eight years through 14 years of age	(A) General purpose vehicle and small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
	(B) Large school bus	A safety restraint system according to vehicle manufacturer's instruction.

40 TAC § 744.3809

Tex. Admin. Code tit. 40, § 744.3809

§ 744.3809. Must caregivers and/or the driver wear a safety belt?

(a) The driver must be properly restrained by a safety belt before starting the vehicle and at all times the vehicle is in motion.

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(b) All adult passengers in a vehicle transporting children, other than a large school bus, must be properly restrained by safety belts.

**40 TAC § 744.3811
Tex. Admin. Code tit. 40, § 744.3811**

§ 744.3811. May parents provide the safety seat equipment required for their child?

Parents may provide the safety seat system for use in transporting their child, provided the equipment is appropriate and can be properly secured in the vehicle. You must use the equipment according to manufacturer's instructions.

**40 TAC § 744.3813
Tex. Admin. Code tit. 40, § 744.3813**

§ 744.3813. May I place more than one person in each safety belt?

No; only one person may use each safety belt.

**40 TAC § 744.3815
Tex. Admin. Code tit. 40, § 744.3815**

§ 744.3815. May a child ride in a safety belt with a shoulder harness?

A child may ride in a safety belt with a shoulder harness if the shoulder harness goes across the child's chest and not across the child's face or neck. The lap belt should fit low across the child's thighs or top of the legs and not across the child's stomach area. Never put a shoulder belt under the child's arm or behind the child's back. If the lap belt and shoulder harness do not fit properly, a booster seat must be used.

**40 TAC § 744.3817
Tex. Admin. Code tit. 40, § 744.3817**

§ 744.3817. Must I carry specific equipment in vehicles used to transport children in my care?

(a) You must have the following in each vehicle you use to transport children:

(1) A list of the children being transported;

(2) Emergency medical transport and treatment authorization forms for each child being transported;

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(3) The operation's name, director or permit holder's name, and operation telephone number in the glove compartment or clearly visible inside the passenger compartment, or the operation's name and telephone number must be clearly visible on the outside of the vehicle;

(4) Parent's names and telephone numbers and emergency telephone numbers for each child being transported;

(5) A fire extinguisher approved by the local or state fire marshal, secured in the passenger compartment and accessible to the adult occupants; and

(6) A first-aid kit as specified in § 744.2753 of this title (relating to What items must each first-aid kit contain?).

(b) The driver must have a current driver's license.

**40 TAC § 744.3819
Tex. Admin. Code tit. 40, § 744.3819**

§ 744.3819. What plan must I have for transportation emergencies?

You must ensure the driver/caregivers have clear instructions in handling emergency breakdowns and accidents, including vehicle evacuation procedures, supervision of the children, and contacting emergency help. The director or designee in charge of the operation must know what action to take in responding to a transportation emergency call.

**40 TAC § 744.3821
Tex. Admin. Code tit. 40, § 744.3821**

§ 744.3821. What communications device must I have in a vehicle used for transporting children?

You must have one of the following:

(1) A communications device such as a cellular phone, message pager, or two-way radio; or

(2) A caregiver at the operation that knows the routine arrival and departure times of the vehicle and takes action if the vehicle does not return to the operation at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.