

Texas Department of Aging and Disability Services
Adult Day Care and Day Activity and Health Services Requirements
Revision: 07-1

Subchapter C

§98.41 Construction and Initial Survey of Completed Construction

(a) Construction phase.

(1) DADS' Regulatory Services Licensing and Credentialing Section must be notified in writing before construction starts.

(2) All construction must be done in accordance with minimum licensing requirements. It is the sponsor's responsibility to employ qualified personnel to prepare the contract documents for construction of a new facility or remodeling of an existing facility. Contract documents for additions and remodeling and for the construction of an entirely new facility must be prepared by an architect licensed by the Texas Board of Architectural Examiners. Drawings must bear the seal of the architect. Certain parts of final plans, designs and specifications must bear the seal of a registered professional engineer approved by the Texas Board of Professional Engineers to operate in Texas. These certain parts include sheets and sections covering structural, electrical, mechanical and sanitary engineering.

(A) Remodeling is the construction, removal or relocation of walls and partitions; the construction of foundations, floors or ceiling-roof assemblies; the expanding or altering of safety systems (including sprinkler, fire alarm and emergency systems); or the conversion of space in a facility to a different use.

(B) General maintenance and repairs of existing material and equipment, repainting, applications of new floor, wall or ceiling finishes or similar projects are not included as remodeling, unless as a part of new construction. DADS must be provided flame spread documentation for new materials applied as finishes.

(b) Contract documents.

(1) Site plan documents must include grade contours; streets with names; north arrow; fire hydrants; fire lanes; utilities, public or private; fences; unusual site conditions, such as ditches, low water levels, other buildings on-site; and indications of buildings five feet or less beyond site property lines.

(2) Foundation plan documents must include general foundation design and details.

(3) Floor plan documents must include room names, numbers and usages; numbered doors including swing; windows; legend or clarification of wall types; dimensions; fixed equipment; plumbing fixtures; and kitchen basic layout; and identification of all smoke barrier walls (outside wall to outside wall) or fire walls.

(4) For both new construction and additions or remodeling to existing buildings, an overall plan of the entire building must be drawn or reduced to fit on an 8½-inch by 11-inch sheet; two reduced plans must be submitted for file record. See subsection (d)(3) of this section.

(5) Schedules must include door materials, widths, types; window materials, sizes, types; room finishes; and special hardware.

(6) Elevations and roof plan must include exterior elevations, including material note indications and any roof top equipment; roof slopes, drains and gas piping; and interior elevations where needed for special conditions.

(7) Details must include wall sections as needed (especially for special conditions); cabinet and built-in work, basic design only; cross sections through buildings as needed; and miscellaneous details and enlargements as needed.

(8) Building structure documents must include structural framing layout and details (primarily for column, beam, joist and structural frame building); roof framing layout (when this cannot be adequately shown on cross section); cross sections in quantity and detail to show sufficient structural design and structural details as necessary to assure adequate structural design, also calculated design loads.

(9) Electrical documents must include electrical layout, including lights, convenience outlets, equipment outlets, switches and other electrical outlets and devices; service, circuiting, distribution and panel diagrams; exit light system (exit signs and emergency egress lighting); emergency electrical provisions (such as generators and panels); fire alarm and similar systems (such as control panel, devices and alarms); sizes and details sufficient to assure safe and properly operating systems; and a staff communication system.

(10) Plumbing documents must include plumbing layout with pipe sizes and details sufficient to assure safe and properly operating systems, water systems, sanitary systems, gas systems, other systems normally considered under the scope of plumbing, fixtures and provisions for combustion air supply.

(11) Heating, ventilation and air-conditioning (HVAC) documents must include sufficient details of HVAC systems and components to assure a safe and properly operating installation, including heating, ventilating and air-conditioning layout, ducts, protection of duct inlets and outlets, combustion air, piping, exhausts and duct smoke, fire dampers, or combination fire and smoke dampers; and equipment types, sizes and locations.

(12) If a sprinkler system is provided or required by any authority, documents must include plans and details of NFPA-designed systems; plans and details of partial systems provided only for hazardous areas; and electrical devices interconnected to the alarm system.

(13) Other layouts, plans or details as may be necessary for a clear understanding of the design and scope of the project, including plans covering private water or sewer systems must be reviewed by the local health or waste water authority having jurisdiction.

(14) Specifications must include installation techniques, quality standards and/or manufacturers, references to specific codes and standards, design criteria, special equipment, hardware, painting and any others as needed to amplify drawings and notes.

(c) Initial survey of completed construction.

(1) Upon completion of construction, including grounds and basic equipment and furnishings, a final construction inspection (initial survey) of the facility, including additions or remodeled areas, is required to be performed by the DADS Regulatory Services Regional Office before occupancy. The completed construction must have the written approval of the local authorities having jurisdiction, including the fire marshal and building inspector.

(2) After the completed construction has been surveyed by DADS and found acceptable, this information will be conveyed to DADS' Regulatory Services Licensing and Credentialing Section as part of the information needed to issue a license to the facility. In the case of additions or remodeling of existing facilities, a revision or modification to an existing license may be necessary. The building, grades, drives and parking must essentially be 100% complete at the time of this initial visit for occupancy approval and licensing, including basic furnishings and operational needs. A facility may accept up to three clients between the time it receives initial approval from DADS and the time the license is issued.

(3) The following documents must be available to DADS' surveyor at the time of the survey of the completed building:

(A) written approval of local authorities as called for in paragraph (1) of this subsection;

(B) written certification of the fire alarm system by the installing agency (Fire Alarm Installation Certificate of the Texas State Fire Marshal);

(C) documentation for all materials used in the building that are required to have a specific limited fire or flame spread rating, including special wall finishes or floor coverings, flame retardant curtains (including cubicle curtains), and rated ceilings. This documentation must

include a signed letter from the installer verifying that the material installed is named in the laboratory test document;

(D) approval of the completed sprinkler system installation by the designing engineer, including a copy of the material list and test certification;

(E) service contracts for maintenance and testing of alarm systems, sprinkler systems, etc.;

(F) a copy of gas test results of the facility's gas lines from the meter;

(G) a written statement from an architect or engineer stating that he certifies that the building was constructed to meet Life Safety Code, NFPA 101, 2000 edition, and all locally applicable codes, and that the facility is in substantial conformance with minimum licensing requirements; and

(H) the contract documents specified in subsection (b) of this section.

(d) Nonapproval of new construction.

(1) If, during the initial on-site survey of completed construction, the surveyor finds certain basic requirements not met, he may recommend to DADS that the facility not yet be licensed and approved for occupancy. Such basic items may include the following:

(A) construction that does not meet minimum code or licensure standards for basic requirements such as corridors being less than required width, ceilings installed at less than the minimum seven-foot six-inch height, client bedroom dimensions less than required, and other such features that would disrupt or otherwise adversely affect the clients and staff if corrected after occupancy;

(B) no written approval by local authorities;

(C) fire protection systems not completely installed or not functioning properly, including fire alarm systems, emergency power and lighting, and sprinkler systems;

(D) required exits not all usable according to Life Safety Code, NFPA 101, 2000 edition;

(E) telephone not installed or not properly working;

(F) sufficient basic furnishings, essential appliances and equipment are not installed or not functioning; and

(G) any other basic operational or safety feature that the surveyor, as the authority having jurisdiction, encounters, which in his judgment would preclude safe and normal occupancy by clients on that day.

(2) If the surveyor encounters only less basic and less important deficiencies, licensure may be recommended based on an approved written plan of correction from the facility's administrator.

(3) Copies of reduced size floor plans on an 8 1/2 inch by 11 inch sheet must be submitted in duplicate to DADS for record or file use and for the facility's use and for facility's use for evacuation plan, fire alarm zone identification, etc. The plan must contain basic legible information such as scale, room usage names, actual bedroom numbers, doors, windows, and any other pertinent information.

§98.42 Safety

(a) Disaster plans. The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties. The rules must address areas, such as: emergency evacuation transportation; adequate sheltering arrangements; supplies; staffing; emergency equipment; individual identification of clients and transfer of records; responding to family inquiries; and post-disaster activities, including emergency power, food, water, and transportation. Plans dealing with natural disasters, such as hurricanes, floods and tornadoes, must be coordinated with the local emergency management coordinator. Information about the local emergency management coordinator may be obtained from the office of the local mayor or county judge.

(b) Environmental safety.

(1) The physical plant safety requirements are designed to provide safety to the clients, participants or adult individuals receiving day care.

(2) The facility must conform to all applicable state laws and local ordinances pertaining to occupancy. When these laws, codes and ordinances are more stringent than the standards in this section, the more stringent requirements govern. If state laws or local codes or ordinances conflict with the requirements of these standards, DADS' Regulatory Services Licensing and Credentialing Section will be so informed so that these conflicts may be legally resolved.

(3) The facility must meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws and regulations: the Americans with Disabilities Act (ADA) of 1990 (Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Government Code, Chapter 469, Elimination of Architectural Barriers; and 16 TAC, Chapter 68, Elimination of Architectural Barriers. Plans for new construction, substantial renovations, modifications, and alterations must be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Texas Government Code, Chapter 469. At least 50% of the client restrooms must be in accordance with ADA. Exception: Facilities licensed for 45 or fewer persons may provide one unisex restroom in accordance with accessibility requirements.

(4) DADS' jurisdiction extends beyond the licensed facility when the licensed area is only a part of a building or floor that is not fire-separated in accordance with the Life Safety Code, NFPA 101, 2000 edition, §16.1.2, New Day-Care Centers, or Life Safety Code, NFPA 101, 2000 edition, §17.1.2, Existing Day-Care Centers with Mixed Occupancies.

(c) Life Safety Code, NFPA 101, 2000 edition.

(1) The principles of the Life Safety Code, NFPA 101, 2000 edition, under Chapter 16 for new day-care centers or Chapter 17 for existing day-care centers, and operating features under §16.7 or §17.7, must be used in establishing life safety requirements for adult day care facilities, with the interpretation and exceptions as listed in paragraphs (2) and (3) of this subsection. Chapter 16 of the Life Safety Code, NFPA 101, 2000 edition, is applicable to new construction, conversions of existing unlicensed buildings, remodeling, and additions conducted after April 1, 2007. Chapter 17 of the Life Safety Code, NFPA 101, 2000 edition, is applicable to existing adult day-care facilities licensed before April 1, 2007. Life safety features and equipment installed in existing buildings that are now in excess of what is required by the Life Safety Code, NFPA 101, 2000 edition, for existing facilities must continue to be maintained or may be completely removed if prior approval is obtained from DADS.

(2) Interpretations of the Life Safety Code, NFPA 101, 2000 edition, chapters 16 and 17, are as follows:

(A) The principles of chapters 16 and 17 apply to any size facility requiring licensing with four or more clients or participants.

(B) The principles of §16.1.4.2 and §17.1.4.2 relating to a building or portion thereof used less than 24 hours per day to house more than three adults requiring care, maintenance, and supervision by other than a relative apply to all facilities requiring licensing. A client must be ambulatory or semi-ambulatory and must not be bedridden. A client must not exhibit behavior that is harmful to the client or others.

(C) The manual fire alarm system and automatic smoke detection system must be installed in accordance with NFPA 72 National Fire Alarm Code series and state fire marshal licensing requirements.

(D) All facilities must follow the Life Safety Code, NFPA 101, 2000 edition, chapters 16 or 17, including the following:

(i) If a center is located in a building containing mixed occupancies, the occupancies must be separated by one-hour fire barriers.

(ii) Each floor occupied by clients must have access to two remote exits in accordance with Chapter 7, Means of Egress. Doors in the means of egress must be equipped with hardware that

opens with a single motion. Doors must swing in the direction of egress for occupant loads greater than 50 occupants.

(iii) Every room or space normally subject to client occupancy, other than bathrooms or any room with attended individual clients, must have at least one outside window for emergency rescue or ventilation. Such window must be able to be opened from the inside without the use of tools and provide a clear opening of not less than 20 inches in width, 24 inches in height, and 5.7 sq. ft. (821 sq. in.) in area (minimum width of 20 inches by 41.2 inches high and minimum height of 24 inches by 34.2 inches wide). The bottom of the opening must be not more than 44 inches (112 cm.) above the floor. In rooms located greater than three stories above grade, the openable clear height, width, and area of the window may be modified to the dimensions necessary for ventilation. Exceptions are:

(I) buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with §9.7;

(II) rooms or spaces with a door leading directly to the outside of the building; or

(III) in existing facilities, rooms smaller than 250 square feet.

(iv) Interior finish in stairways, corridors, and lobbies must be Class A. All other walls and ceilings must be Class A or Class B interior finish in accordance with Life Safety Code, NFPA 101, 2000 edition, §10.2.3. Flame spread is the rate of fire travel along the surface of a material. (This is different from other requirements for time-rated "burn through" resistance ratings such as one-hour rated.) Flame spread ratings are Class A (0-25), Class B (26-75), and Class C (76-200).

(v) Floor finish materials within corridors and exits must be Class I or Class II in accordance with §10.2.7 in new construction or new installations of flooring. Replacement or newly installed floor finish materials must be Class I or II. Existing floor finish materials in good condition may remain in use in accordance with §10.2.

(vi) A smoke detection system must be installed in accordance with §9.6 with placement of detectors in each story in front of the doors to the stairways and in the corridors of all floors occupied by the day-care occupancy. Detectors also must be installed in lounges, recreation areas, dining areas, and sleeping rooms in the center. Maintenance and testing must be conducted semiannually on fire alarm systems by a person licensed by the State of Texas. The facility must have a written contract with a fire alarm firm to perform the inspection, test, and maintenance requirements of NFPA 72 semiannually. The firm must have an Alarm Certificate of Registration number from the Texas State Fire Marshal's Office. Inspections stipulated to in the contract must actually be performed by the firm cited in the contract. The person performing the semiannual service must have an individual fire alarm license from the Texas State Fire Marshal's Office. A licensed individual must not perform the contract inspections, tests and contracted maintenance unless the individual is an employee or agent of a registered firm. All other NFPA 72 requirements must be performed and documented by a licensed individual. Smoke detector sensitivity must be checked within one year after installation and every alternate year thereafter in accordance with NFPA 72. Documents, including as-built installation drawings, operation and maintenance manuals, and a written sequence of operation, must be available for examination by DADS.

(vii) Fire department notification must be accomplished in accordance with §9.6.4, except in day-care centers with not more than 100 clients.

(3) Exceptions to the Life Safety Code, NFPA 101, 2000 edition, chapters 16 or 17, are as follows.

(A) All required smoke detectors must be powered by the facility electrical system and be interconnected with the fire alarm system.

(B) Reference to apartment buildings in §16.1.2 or §17.1.2 must be deleted. Any floor above or below the floor of exit discharge that is used by semi-ambulatory clients, or those whose

disability prevents them from taking appropriate action for self-preservation in emergencies, must be provided with smoke compartmentation.

(C) Emergency lighting is not required for means of egress if the facility operation is during daylight hours and if natural light, direct or borrowed, is provided so that the means of egress is usable in emergencies.

(D) Special protective electrical receptacle covers are not required.

(E) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, is not applicable if the facility has residential-type cooking equipment.

(F) Public corridors must not be used for return or supply air systems.

(G) Residential-type heating units or heating units designed for attic installations must not be considered to be units requiring furnace room construction as specified under §16.3.2.1 or §17.3.2.1.

(H) New additions or remodeling must be as required for new construction in accordance with paragraph (4) of this subsection.

(I) Sprinkler system for a janitor's closet as specified under §16.3.2.1 or §17.3.2.1 is not required unless the building has a complete NFPA 13 system.

(4) For new construction, DADS requires conformance to the following codes, except that DADS may accept other nationally recognized codes that are locally enforced.

(A) If the municipality has a building code and a plumbing code, then those codes govern in those areas of construction. Where local codes or ordinances are applicable, the most restrictive parts concerning the same subject item apply unless otherwise determined by the authority having jurisdiction for local codes and the licensing agency.

(B) In the absence of local municipal codes or ordinances, nationally recognized codes must be used, such as the International Building Code and the compatible International Codes published by the International Code Council. These nationally recognized codes, when used, must all be publications of the same group or organization to assure the intended continuity.

(C) Heating, ventilating, and air-conditioning (HVAC) systems must be designed and installed in accordance with NFPA 90A and NFPA 90B, as applicable, and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), except as may be modified in this subchapter. Buildings required to meet NFPA 90A must have automatic shutdown upon initiation of the fire alarm system, in accordance with NFPA 90A, §4.4.

(D) Electrical and illumination systems must be designed and installed in accordance with NFPA 70 and the Lighting Handbook of the Illuminating Engineering Society (IES) of North America, except as may be modified in this subchapter. Minimum illumination must be 20 foot candles in the toilets, bathing, and general use areas such as living, dining, corridors, and lobbies. Minimum illumination must be 50 foot candles in the kitchen, medication or food preparation areas, and activity areas for handicrafts or reading.

(5) An existing building either occupied as an adult day care facility at the time of initial inspection by DADS, or converted to occupancy as an adult day care facility, must meet all local requirements pertaining to the building for that occupancy. DADS may require the facility sponsor or licensee to submit evidence that local requirements are satisfied.

(6) Adult day care facilities must be of recognized permanent type construction as distinguished from movable buildings or construction. Buildings must be structurally sound with regard to actual or expected dead, live, and wind loads. DADS may require submission of evidence to this effect. Foundations must be permanent, structurally sound for local soil conditions, and in good repair. A letter from a registered professional engineer may be required as validation of a permanent and structurally sound foundation. The walking surface must be consistent, nominally level, and without abrupt changes in elevation, trip hazards, or gaps. Floor surfaces may be on different elevations if connected with ramps or steps in accordance with the Life Safety Code, NFPA 101, 2000 edition, means of egress chapter.

(7) Electrical and mechanical systems must be safe and in working order. DADS may require the facility sponsor or licensee to submit evidence to this effect, consisting of a report from the fire marshal or city or county building official having jurisdiction or a report from a registered professional engineer.

(8) DADS will consider a written request from the facility for a waiver of requirements which, if strictly applied, would clearly be impractical in DADS' judgment for existing buildings and structures that have been converted to adult day care occupancy. Any of these modifications will be allowed only to the extent that reasonable life safety against the hazards of fire, explosion, structural, or other building failure and panic are provided and maintained.

(d) Personal safety.

(1) Fire safety.

(A) Fire safety must be observed at all times.

(i) Fire drills must be conducted every month with all occupants of the building participating in the drills. Drills must be held at expected and unexpected times and under varying conditions to simulate the unusual conditions that can occur in an actual emergency. Drill participants must relocate to a predetermined location and remain at such location until a recall or dismissal signal is given. All fire drills must be documented on a form provided by DADS.

(ii) Fire prevention inspections must be conducted monthly by a trained senior member of the staff. The facility director or another staff member must inspect all exit facilities daily to ensure that all stairways, doors, and other exits are in proper condition. A copy of the latest inspection report must be posted in a conspicuous place in the facility. Copies of monthly inspection reports for the previous year must be maintained at the facility.

(iii) A copy of the annual fire marshal inspection by the local fire marshal must be available on site.

(B) Storage items must be neatly arranged and placed to minimize fire hazard. Gasoline, volatile materials, paint, and similar products must not be stored in the building housing clients unless approved by the local fire marshal. Accumulations of extraneous material and refuse are not permitted.

(C) The building must be kept in good repair; electrical, heating and cooling systems must be maintained in a safe manner. Electrical appliances, devices and lamps must be used in a manner that prevents overloaded circuits. Any extension cords in excess of six feet must be shielded or protected.

(D) The facility must report all fires, serious injuries, deaths, or disasters within 24 hours after the occurrence to DADS Consumer Rights and Services at 1-800-458-9858. A telephone report concerning fires must be followed by a written report on DADS' Fire Report form.

(E) The facility must develop and conspicuously post throughout the facility an emergency evacuation plan approved by the local fire marshal having jurisdiction and DADS.

(F) Smoking regulations must be established and conspicuously posted in the facility. All smoking must be supervised. Ashtrays of noncombustible material and safe design must be provided.

(G) The facility must have an emergency fire lane for access of fire apparatus if required by local authorities.

(H) There must be at least one telephone in the facility available to either staff or clients to use in case of an emergency. Emergency telephone numbers must be posted conspicuously at or near the telephone.

(I) An initial pressure test of facility gas lines from the meter must be provided. Additional pressure tests are required when the facility has major renovations or additions during which the gas service is interrupted. All gas heating systems must be checked for proper operation and safety before the heating season by someone experienced in the areas of heating and air conditioning. Any unsatisfactory conditions must be corrected promptly.

(J) Curtains or draperies in public spaces and individual rooms in which smoking is allowed must be flame retardant.

(K) Portable fire extinguishers must be provided and maintained to comply with the provisions of NFPA 10. This includes such items as type of extinguishers (A, B, or C), location and spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent (with any necessary servicing), and hydrostatic testing as recommended by the manufacturer.

(L) Metal wastebaskets of substantial gauge or any UL- or FM- approved containers must be provided in all areas where smoking is permitted. Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical or boiler rooms, general storage, and similar places must be made of metal or any UL- or FM- approved material, having a close fitting cover. Disposable plastic liners may be used in these containers for sanitation.

(2) General requirements.

(A) All exterior site conditions must be designed, constructed and maintained in the interest of clients' safety. Newly constructed ramps must not exceed 1:12 slope. Ramps, walks and steps must be of slip-resistive texture and be smooth and uniform, without irregularities. Guard rails, fences and hand rails must be provided as required.

(B) All stairways must have substantial hand rails properly secured.

(C) Tubs or showers for client use must have non-slip bottoms or floor surfaces, either built in or applied to the surface.

(D) Elevators for client use must be in safe operating condition.

(E) An adequate supply of hot water must be provided. The hot water system connected to all client-use fixtures must deliver warm water no hotter than 120 degrees Fahrenheit at the fixture. Hot water for other sanitary usages must be provided at the temperatures required for the appliance or fixture served or for the operation involved.

(F) There must be no occupancies or activities adversely affecting the safety of the clients in the buildings or on the premises of the facility.

(G) Licensure capacity will be calculated at 40 square feet per client. This space may not include the kitchen/food service area, rest rooms, bath areas, office, corridors, stairways, storage areas, and outdoor space. Facilities licensed before October 1, 2000, will be allowed to meet the requirements in effect before October 1, 2000, of 35/50 square feet for ambulatory and semi-ambulatory clients. If a facility licensed before October 1, 2000, chooses to increase its capacity, changes ownership, or relocates, the facility will be required to meet the current standards for usable space, outdoor area, and rooms for privacy.

(H) An office area must be provided in a central location to record and maintain files for each client.

(I) An area for rest, other than the treatment and/or exam room, must be provided with a sufficient number of reclining lounge chairs or beds to accommodate the needs of clients.

(J) A separate room or rooms with beds must be provided for those clients who prefer privacy. Facilities licensed on or after May 1, 1999, must ensure that the room(s) with beds provide space for a minimum 5% of the licensed capacity. The usable space in the room(s) must provide not less than 80 square feet per bed for a one-bed room and not less than 60 square feet per bed for multiple-bed rooms. A bedroom shall be not less than eight feet in its smallest dimension, unless otherwise approved by DADS.

(K) The facility must have at least one room available as a treatment or examination room for use by the nursing staff or the client's physician. The client may not be treated or examined in an area other than the treatment room.

(L) The facility must have a safe, secure, and suitable outdoor recreation or relaxation area for clients. This area must be connected to, be a part of, be controlled by, and be directly accessible from the facility. This area must be enclosed by a wall or a fence or located in a courtyard and supervised by staff to prevent wandering and large enough to conduct outdoor activities. A chain-link fence must provide protection on top to prevent injury from wire points.

This area must be suitably furnished. A minimum of 20% of the required outdoor space must be shaded. The required outdoor space for facilities licensed on or after May 1, 1999 is:

- (i) 400 square feet for facilities up to 59 clients;
- (ii) 600 square feet for facilities up to 99 clients; and
- (iii) 800 square feet for facilities with 100 or more clients.

§98.43 Sanitation

(a) General.

- (1) Wastewater and sewage must be discharged into a state-approved municipal sewage system; any exception such as an on-site sewage facility must be as approved by the Texas Commission on Environmental Quality or authorized agent.
- (2) The water supply must be from a system approved by the Public Drinking Water Section of the Texas Commission on Environmental Quality, or from a system regulated by an entity responsible for water quality in that jurisdiction as approved by the Public Drinking Water Section of the Texas Commission on Environmental Quality.
- (3) Waste, trash and garbage must be disposed from the premises at regular intervals in accordance with state and local practices. Excessive accumulations are not permitted. Outside containers must have tight-fitting lids left in closed position. Containers must be maintained in a clean and serviceable condition.
- (4) The building and grounds must be kept neat and free of refuse, litter, extraneous materials and unsightly or injurious accumulations.
- (5) The facility must make every effort possible to guard against insects, rodents, rainwater and other conditions adversely affecting a sanitary environment or the well-being of the client.
- (6) A pest control program must be provided by qualified facility staff or by contract with a licensed pest control company. The least toxic and least flammable effective chemicals must be used. Documented evidence of routine efforts to remove rodents and insects must be maintained.
- (7) The facility must be kept free of offensive odors, accumulations of dirt, rubbish, dust and hazards. Floors must be maintained in good condition and cleaned regularly; walls and ceilings must be structurally maintained, repaired and repainted or cleaned as needed. Storage areas, attics and cellars must be free of refuse and extraneous materials.
- (8) There must be complete, separate, and adequate rest room facilities for men and women. Toilets must be provided as necessary to meet the needs of the clients; however, there must be not less than one toilet and one lavatory for every 15 clients or fraction thereof. A urinal may be substituted as the third required toilet in the men's bathroom. Multiple toilets must be compartmented. All toilets must be equipped with grab bars. Lavatories must be provided with hot and cold water, soap, and individual towels. A minimum of one bathing unit must be provided. Facilities licensed on or after May 1, 1999, must provide a minimum of one bathing unit that does not interfere with the use of the restroom by other clients. Each tub or shower must be in an individual room or enclosure that provides space for the private use of the bathing fixture, for drying and dressing, and for the client and attendant.
- (9) All bathrooms, toilet rooms and other odor-producing rooms or areas for soiled and unsanitary operations must be ventilated to the exterior for odor control; the use of windows is not permissible.
- (10) In kitchens and laundries, there must be procedures that prevent cross contamination between clean and soiled utensils and clean and soiled linens.

(b) Kitchen.

- (1) The Department of State Health Services (DSHS) rules in 25 TAC §§229.161-229.171 and §§229.173-229.175 (relating to Texas Food Establishments) and local health ordinances or

requirements must be observed in the storage, preparation, and distribution of food; in the cleaning of dishes, equipment, and work area; and in the storage and disposal of waste.

(2) Facilities licensed after May 1, 1999, must provide three compartment sinks. A three-compartment sink must be used if washing, rinsing and sanitizing utensils and equipment is done manually. Sinks must be large enough to permit the complete immersion of utensils and equipment and each compartment sink must be supplied with hot and cold potable water. A two-compartment sink will be acceptable where only single-service tableware is provided.

(3) Food preparation kitchens must have separate hand-washing fixtures including hot and cold water, soap, and individual towels, preferably paper towels, in accordance with DSHS rules in 25 TAC §§229.161-229.171 and §§229.173-229.175.

(4) Where kitchen provisions consist of serving kitchens only and cooking equipment is used only to warm food, prepare hot drinks or provide similar food service, the kitchen is not required to have separate hand-washing fixtures.

§98.44 Plans, Approvals and Construction Procedures

At the option of the applicant, DADS will review plans for new buildings, additions, conversion of buildings not licensed by DADS, or remodeling of existing licensed facilities. DADS will, within 30 days, inform the applicant in writing of the results of the review. If the plans comply with DADS' architectural requirements, DADS may not subsequently change the architectural requirement applicable to the project unless the change is required by federal law or the applicant fails to complete the project within two years. DADS may grant a waiver of this two-year period for delays due to unusual circumstances. There is no time limit to complete a project, only a time limit for completing a project using requirements that have been revised after the project was reviewed.

(1) Submittal of plans.

(A) For review of plans, submit one copy of working drawings and specifications (contract documents) before construction begins. Documents must be in sufficient detail to interpret compliance with these standards and assure proper construction. Documents must be prepared according to accepted architectural practice and must include general construction, special conditions and schedules.

(B) Final copies of plans must have (in the reproduction process by which plans are reproduced) a title block that shows name of facility, person, or organization preparing the sheet, sheet numbers, facility address, and drawing date. Sheets and sections covering structural, electrical, mechanical, and sanitary engineering final plans, designs, and specifications must bear the seal of a registered professional engineer approved by the Texas Board of Professional Engineers to operate in Texas. Contract documents for additions, remodeling, and construction of an entirely new facility must be prepared by an architect licensed by the Texas Board of Architectural Examiners. Drawings must bear the seal of the architect.

(C) A final plan for a major addition to a facility must include a basic layout to scale of the entire building onto which the addition will connect. North direction must be shown. The entire basic layout usually can be to scale such as 1/16 inch per foot or 1/32 inch per foot for very large buildings.

(D) Plans and specifications for conversions or remodeling must be complete for all parts and features involved.

(E) The sponsor is responsible for employing qualified personnel to prepare the contract documents for construction. If the contract documents have errors or omissions to the extent that conformance with standards cannot be reasonably assured or determined, a revised set of documents for review may be requested.

(F) The review of plans and specifications by DADS is based on general utility, the minimum licensing standards, and conformance of the Life Safety Code, NFPA 101, 2000 edition, and is not to be construed as all-inclusive approval of the structural, electrical, or mechanical components, nor does it include a review of building plans for compliance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

(G) Fees for plan review will be required in accordance with §98.22 of this title (relating to Plan Review Fees).

(2) Contract documents.

(A) Site plan documents must include:

- (i) grade contours;
- (ii) streets (with names);
- (iii) north arrow;
- (iv) fire hydrants;
- (v) fire lanes;
- (vi) utilities, public or private;
- (vii) fences; and
- (viii) unusual site conditions, such as:
 - (I) ditches;
 - (II) low water levels;
 - (III) other buildings on-site; and
 - (IV) indications of buildings five feet or less beyond site property lines.

(B) Foundation plan documents must include general foundation design and details.

(C) Floor plan documents must include:

- (i) room names, numbers and usages;
 - (ii) doors (numbered), including swing;
 - (iii) windows;
 - (iv) legend or clarification of wall types;
 - (v) dimensions;
 - (vi) fixed equipment;
 - (vii) plumbing fixtures;
 - (viii) kitchen basic layout; and
 - (ix) identification of all smoke barrier walls (outside wall to outside wall) or fire walls.
- (D) For both new construction and additions or remodeling to existing buildings, an overall plan of the entire building must be drawn or reduced to fit on an 8 1/2-inch by 11-inch sheet.

(E) Schedules must include:

- (i) door materials, widths and types;
- (ii) window materials, sizes and types;
- (iii) room finishes; and
- (iv) special hardware.

(F) Elevations and roof plan must include:

- (i) exterior elevations, including:
 - (I) material note indications; and
 - (II) any rooftop equipment;
- (ii) roof slopes;
- (iii) drains;
- (iv) gas piping, etc.; and
- (v) interior elevations where needed for special conditions.

(G) Details must include:

- (i) wall sections as needed, especially for special conditions;
- (ii) cabinet and built-in work, basic design only;

(iii) cross sections through buildings as needed; and
(iv) miscellaneous details and enlargements as needed.

(H) Building structure documents must include:

(i) structural framing layout and details (primarily for column, beam, joist and structural building);

(ii) roof framing layout (when it cannot be adequately shown on cross section); and

(iii) cross sections in quantity and detail to show sufficient structural design and structural details as necessary to assure adequate structural design and calculated design loads.

(I) Electrical documents must include:

(i) electrical layout, including lights, convenience outlets, equipment outlets, switches and other electrical outlets and devices;

(ii) service, circuiting, distribution and panel diagrams;

(iii) exit light system (exit signs and emergency egress lighting);

(iv) emergency electrical provisions (such as generators and panels, if applicable);

(v) staff communication system;

(vi) fire alarm and similar systems (such as control panel, devices and alarms); and

(vii) sizes and details sufficient to assure safe and properly operating systems.

(J) Plumbing documents must include:

(i) plumbing layout with pipe sizes and details sufficient to assure safe and properly operating systems;

(ii) water systems;

(iii) sanitary systems;

(iv) gas systems; and

(v) other systems normally considered under the scope of plumbing, fixtures and provisions for combustion air supply.

(K) Heating, ventilating and air-conditioning systems (HVAC) documents must include:

(i) sufficient details of HVAC systems and components to assure a safe and properly operating installation, including heating, ventilating, and air-conditioning layout, ducts, protection of duct inlets and outlets, combustion air, piping, exhausts, and duct smoke and/or fire dampers; and

(ii) equipment types, sizes and locations.

(L) If applicable, sprinkler system documents must include:

(i) plans and details of NFPA designed systems;

(ii) plans and details of partial systems provided only for hazardous areas; and

(iii) electrical devices interconnected to the alarm system.

(M) Specifications must include:

(i) installation techniques;

(ii) quality standards and/or manufacturers;

(iii) references to specific codes and standards;

(iv) design criteria;

(v) special equipment;

(vi) hardware;

(vii) finishes; and

(viii) any others as needed to amplify drawings and notes.

(N) Other layout, plans or details as may be necessary for a clear understanding of the design and scope of the project, including plans covering private water or sewer systems, must be reviewed by local health or wastewater authority having jurisdiction.

(3) Construction phase.

(A) DADS must be notified in writing before construction starts.

(B) All construction not done in accordance with the completed plans and specifications as submitted for review and as modified in accordance with review requirements will require additional drawings if the change is significant.

(4) Initial survey of completed construction.

(A) Upon completion of construction, including grounds and basic equipment and furnishings, a final construction inspection (initial survey) of the facility must be performed by DADS before admitting clients. An initial architectural inspection will be scheduled after DADS receives a notarized licensure application, required fee, fire marshal approval and a letter from an architect or engineer stating that to the best of their knowledge the facility meets the architectural requirements for licensure.

(B) After the completed construction has been surveyed by DADS and found acceptable, this information will be forwarded to DADS' Regulatory Services Licensing and Credentialing Section as part of the information needed to issue a license to the facility. In the case of additions or remodeling of existing facilities, a revision or modification to an existing license may be necessary. The building, including basic furnishings and operational needs, grades, drives, and parking, must essentially be 100% complete at the time of this initial visit for occupancy approval and licensing. A facility may accept up to three clients between the time it receives initial approval from DADS and the time the license is issued.

(C) The following documents must be available to DADS' architectural inspecting surveyor at the time of the survey of the completed building:

(i) written approval of local authorities as required in subparagraph (A) of this paragraph;

(ii) written certification of the fire alarm system by the installing agency (the Texas State Fire Marshal's Fire Alarm Installation Certificate);

(iii) documentation of materials used in the building that are required to have a specific limited fire or flame spread rating, including special wall finishes or floor coverings, flame retardant curtains (including cubicle curtains), rated ceilings, etc., and, in the case of carpeting, a signed letter from the installer verifying that the carpeting installed is named in the laboratory test document;

(iv) approval of the completed sprinkler system installation by the Texas Department of Insurance or designing engineer, including a copy of the material list and test certification;

(v) service contracts for maintenance and testing of alarm systems, sprinkler systems, etc.;

(vi) a copy of gas test results of the facility's gas lines from the meter;

(vii) a written statement from an architect/engineer stating, to the best of his knowledge, the building was constructed in substantial compliance with the construction documents, the Life Safety Code, NFPA 101, 2000 edition, DADS licensure standards, and local codes; and

(viii) any other such documentation as needed.

(5) Nonapproval of new construction.

(A) If, during the initial on-site survey of completed construction, the surveyor finds certain basic requirements not met, DADS may recommend the facility not be licensed and approved for occupancy. Such items may include the following:

(i) substantial changes made during construction that were not submitted to DADS for review and that may require revised "as-built" drawings to cover the changes, including architectural, structural, mechanical, and electrical items as specified in paragraph (3)(B) of this section;

(ii) construction that does not meet minimum code or licensure standards, such as corridors that are less than required width, ceilings installed at less than the minimum seven-foot, six-inch height, client bedroom dimensions less than required, and other such features that would disrupt or otherwise adversely affect the clients and staff if corrected after occupancy;

(iii) no written approval by local authorities;

(iv) fire protection systems, including fire alarm systems, emergency power and lighting, and sprinkler systems, not completely installed or not functioning properly;

(v) required exits not all usable according to Life Safety Code, NFPA 101, 2000 edition requirements;

(vi) telephone not installed or not properly working;

(vii) sufficient basic furnishings, essential appliances and equipment not installed or not functioning; and

(viii) any other basic operational or safety feature that would preclude safe and normal occupancy by clients on that day.

(B) If the surveyor encounters only minor deficiencies, licensure may be recommended based on an approved written plan of correction from the facility's administrator.

(C) Copies of reduced-size floor plans on an 8 1/2-inch by 11-inch sheet must be submitted in duplicate to DADS for record or file use and for the facility's use for evacuation plan, fire alarm zone identification, etc. The plan must contain basic legible information such as scale, room usage names, actual bedroom numbers, doors, windows, and any other pertinent information.