CMS and the State of Florida now permit the use of the categorical waiver to design and construct cooking facilities open to the access corridor. This means, in accordance with the requirements and conditions described below, a fully equipped kitchen can serve full meals, including bacon and eggs, and not have to be enclosed in a one hour rated room or container. This will allow the kitchen to once again become the heart and soul of home.

Renovating or adding a kitchen to transform an institutional facility into a place called “Home” will generally require the expertise of design professionals but you should be familiar with the requirements so you can create the Categorical Waiver.

NOTE: The ANNEX Commentary included in the code exerts, is explanatory material only and is not mandatory for compliance.

**CMS S&C-13-58-LSC States:**
CMS memorandum S&C-12-21-LSC, dated March 9, 2012, also provided for categorical waivers of several provisions of the 2000 LSC, but required each provider/supplier waiver to be evaluated separately before a survey was to be conducted, with final approval by the CMS Regional Office.

Providers/suppliers seeking to take advantage of these categorical waivers may now use the categorical waiver process described above, so long as they are in compliance with all other requirements identified in S&C-12-21-LSC.

**CMS commentary from S&C-12-21-LSC**
LSC section 18/19.3.2.5 Cooking Facilities, more specifically the requirements at 18/19.3.2.5.2, 18/19.3.2.5.3, 18/19.3.2.5.4 and sections 18/19.3.2.5.5 which allow certain types of alternative type kitchen cooking arrangements;


19.3.2.5.2* Where residential cooking equipment is used for food warming or limited cooking, the equipment shall not be required to be protected in accordance with 9.2.3, and the presence of the equipment shall not require the area to be protected as a hazardous area.
ANNEX Commentary:
A.19.3.2.5.2 This provision is intended to permit small appliances used for reheating, such as microwave ovens, hot plates, toasters, and nourishment centers, to be exempt from the requirements for commercial cooking equipment and hazardous area protection.

19.3.2.5.3* Within a smoke compartment, where residential or commercial cooking equipment is used to prepare meals for 30 or fewer persons, one cooking facility shall be permitted to be open to the corridor, provided that all of the following conditions are met:

ANNEX Commentary:
A.19.3.2.5.3 The intent of 19.3.2.5.3 is to limit the number of persons for whom meals are routinely prepared to not more than 30. Staff and feeding assistants are not included in this number. (1) The portion of the health care facility served by the cooking facility is limited to 30 beds and is separated from other portions of the health care facility by a smoke barrier constructed in accordance with 19.3.7.3, 19.3.7.6, and 19.3.7.8.

(2) The cooktop or range is equipped with a range hood of a width at least equal to the width of the cooking surface, with grease baffles or other grease-collecting and cleanout capability.

(3)*The hood systems have a minimum airflow of 500 cfm (14,000 L/min).

ANNEX Commentary:
A.19.3.2.5.3 (3) The minimum airflow of 500 cfm (14,000 L/m) is intended to require the use of residential hood equipment at the higher end of equipment capacities. It is also intended to draw a sufficient amount of the cooking vapors into the grease baffle and filter system to reduce migration beyond the hood.

(4) The hood systems that are not ducted to the exterior additionally have a charcoal filter to remove smoke and odor.

(5) The cooktop or range complies with all of the following:

(a) The cooktop or range is protected with a fire suppression system listed in accordance with UL 300, Standard for Fire Testing of Fire Extinguishing Systems for Protection of Commercial Cooking Equipment, or is tested and meets all requirements of UL 300A, Extinguishing System Units for Residential Range Top Cooking Surfaces, in accordance with the applicable testing document’s scope.

(b) A manual release of the extinguishing system is provided in accordance with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, Section 10.5.
(c) An interlock is provided to turn off all sources of fuel and electrical power to the cooktop or range when the suppression system is activated.

(6)*The use of solid fuel for cooking is prohibited.

**ANNEX Commentary:**
A.19.3.2.5.3(6) The intent of this provision is to limit cooking fuel to gas or electricity. The prohibition of solid fuels for cooking is not intended to prohibit charcoal grilling on grills located outside the facility.

(7)*Deep-fat frying is prohibited.

**ANNEX Commentary:**
A.19.3.2.5.3(7) Deep-fat frying is defined as a cooking method that involves fully immersing food in hot oil. (8) Portable fire extinguishers in accordance with NFPA 96 are located in all kitchen areas.

(9)*A switch meeting all of the following is provided:

**ANNEX Commentary:**
A.19.3.2.5.3(9) The intent of this requirement is that the fuel source for the cooktop or range is to be turned on only when staff is present or aware that the kitchen is being used. The timer function is meant to provide an additional safeguard if the staff forgets to deactivate the cooktop or range. If a cooking activity lasts longer than 120 minutes, the timer would be required to be manually reset.

(a) A locked switch, or a switch located in a restricted location, is provided within the cooking facility that deactivates the cooktop or range.
(b) The switch is used to deactivate the cooktop or range whenever the kitchen is not under staff supervision.
(c) The switch is on a timer, not exceeding a 120-minute capacity, that automatically deactivates the cooktop or range, independent of staff action.

(10) Procedures for the use, inspection, testing, and maintenance of the cooking equipment are in accordance with Chapter 11 of NFPA 96 and the manufacturer’s instructions and are followed.

(11)*Not less than two AC-powered photoelectric smoke alarms, interconnected in accordance with 9.6.2.10.3, equipped with a silence feature, and in accordance with NFPA 72, National Fire Alarm and Signaling Code, are located not closer than 20 ft (6.1 m) from the cooktop or range.
ANNEX Commentary:
A.19.3.2.5.3(11) The intent of requiring smoke alarms instead of smoke detectors is to prevent false alarms from initiating the building fire alarm system and notifying the fire department. Smoke alarms should be maintained a minimum of 20 ft (6.1 m) away from the cooktop or range as studies have shown this distance to be the threshold for significantly reducing false alarms caused by cooking. The intent of the interconnected smoke alarms, with silence feature, is that while the devices would alert staff members to a potential problem, if it is a false alarm, the staff members can use the silence feature instead of disabling the alarm. The referenced study indicates that nuisance alarms are reduced with photoelectric smoke alarms. Providing two, interconnected alarms provides a safety factor since they are not electrically supervised by the fire alarm system. (Smoke Alarms – Pilot Study of Nuisance Alarms Associated with Cooking)

(12) No smoke detector is located less than 20 ft (6.1 m) from the cooktop or range.

(13) The smoke compartment is protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7.

19.3.2.5.4* Within a smoke compartment, residential or commercial cooking equipment that is used to prepare meals for 30 or fewer persons shall be permitted, provided that the cooking facility complies with all of the following conditions:

ANNEX Commentary:
A.19.3.2.5.4 The provisions of 19.3.2.5.4 differ from those of 19.3.2.5.3, as they apply to cooking equipment that is separated from the corridor

(1) The space containing the cooking equipment is not a sleeping room.
(2) The space containing the cooking equipment shall be separated from the corridor by partitions complying with 19.3.6.2 through 19.3.6.5.
(3) The requirements of 19.3.2.5.3(1) through (10) and (13) are met.

19.3.2.5.5* Where cooking facilities are protected in accordance with 9.2.3, the presence of the cooking equipment shall not cause the room or space housing the equipment to be classified as a hazardous area with respect to the requirements of 19.3.2.1, and the room or space shall not be permitted to be open to the corridor.

ANNEX Commentary:
A.19.3.2.5.5 The provision of 19.3.2.5.5 clarifies that protected commercial cooking equipment does not require an enclosure (separation) as a hazardous area in accordance with Section 8.7, as is required by 19.3.2.1.