

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2082  
(State and Local Government Committee)  
(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 23-09-01, 23-09-03, 23-09-05, and 23-09-07 of the North Dakota Century Code, relating to food and lodging establishments and assisted living facilities.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-09-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility in this chapter includes a facility that is defined as an assisted living facility in any other part of the code. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16, chapter 23-17.7, chapter 25-16, or section 50-11-01.4.
2. "Bakery" means an establishment or any part of an establishment that manufactures or prepares bread or bread products, pies, cakes, cookies, crackers, doughnuts, or other similar products, or candy, whether plain; chocolate or chocolate coated; mixed with nuts, fruits, or other fillers; covered with chocolate or other coating; and shaped, molded, or formed in various shapes. The term does not include food service establishments nor home cake decorators.
3. "Child care food service establishment" means food service that is prepared in a kitchen owned and operated by a child care provider licensed in accordance with chapter 50-11.1 for more than thirty children.
4. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored, including a service center or base of operations directly from which mobile food units are supplied or serviced. The term does not include an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.
- 4.5. "Department" means the department of health and human services.
- 5-6. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat market, food processing plant, school, child care, mobile or temporary food establishment, or similar place in which food or drink is prepared for sale or service to the public on the premises or elsewhere with or without charge.

- ~~6-7.~~ "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.
- ~~7-8.~~ "Limited restaurant" means a food service establishment that is restricted to a specific menu as determined by the department or an establishment serving only prepackaged foods, such as frozen pizza and sandwiches, which receive no more than heat treatment and are served directly in the package or on single-serve articles.
- ~~8-9.~~ "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished ~~for pay to transient guests for a charge~~. The term does not include ~~a facility providing personal care services directly or~~ single structures with five or fewer guest rooms and ten or fewer total occupants, a series or group of buildings or structures containing five or fewer guest rooms and ten or fewer total occupants operated as one entity under a single ownership on the same property or physical location, or a facility providing personal care services directly through contract services as defined in section 23-09.3-01 or 50-32-01.
- ~~9-10.~~ "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.
- ~~10-11.~~ "Proprietor" includes the person in charge of a food establishment, lodging establishment, or assisted living facility, whether as owner, lessee, manager, or agent.
- ~~11-12.~~ "Pushcart" means a non-self-propelled vehicle limited to serving nonpotentially hazardous food or commissary-wrapped food maintained at proper temperatures.
- ~~12-13.~~ "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, that are permanently kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished. The term includes a limited restaurant restricted to a specified menu.
- ~~13-14.~~ "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for offpremise consumption. The term includes a delicatessen that offers prepared food in bulk quantities only. The term does not include an establishment that handles only prepackaged nonpotentially hazardous foods, roadside market that offers only fresh fruits and vegetables for sale, food service establishment, or food and beverage vending machine.
- ~~14-15.~~ "Retail meat market" means a commercial establishment and buildings or structures connected with it, used to process, store, or display meat or meat products for retail sale to the public for human consumption. The term does not include a meat establishment operating under the federal or state meat inspection program.
- ~~15-16.~~ "Salvage processing facility" means an establishment engaged in the business of reconditioning or by other means salvaging distressed merchandise for human consumption or use.
- ~~16-17.~~ "Temporary food service establishment" means any food service establishment that operates at a fixed location for not more than fourteen consecutive days. The term does not include a nonprofit public-spirited organization or person providing a limited type of food service as defined in chapter 23-09.2.
18. "Transient guest" means occupancy of a guest room for a period of fewer than thirty consecutive days or one month, whichever is more.

**SECTION 2. AMENDMENT.** Section 23-09-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-09-03. Exiting requirements.**

Every lodging establishment and assisted living facility constructed in the state shall have adequate exiting as defined by the state building code in chapter 54-21.3 and state fire code in chapter 18-01 with the following exceptions:

1. All lodging establishments and assisted living facilities in existence at the time of implementation of this section are required to continue with fire escapes previously provided for within this section providing that they are deemed adequate by the local fire authority having approval, or by the state fire marshal's office.
2. If the lodging establishment or assisted living facility is provided with exterior access balconies connecting the main entrance door of each unit to two stairways remote from each other.

**SECTION 3. AMENDMENT.** Section 23-09-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-09-05. Fire escapes to be kept clear - Notice of location and use of fire escapes required.**

Access to fire escapes required under this chapter must be kept free and clear at all times of all obstructions of any nature. The proprietor of the lodging establishment or assisted living facility shall provide for adequate exit lighting and exit signs as defined in the state building code, chapter 54-21.3, and state fire code, chapter 18-01.

**SECTION 4. AMENDMENT.** Section 23-09-07 of the North Dakota Century Code is amended and reenacted as follows:

**23-09-07. Lodging establishments or assisted living facilities with elevators - Protection to prevent spread of fire.**

All new construction of, remodeling of, or additions to lodging establishments or assisted living facilities equipped with passenger or freight elevators must comply with state building code fire protection requirements and state fire code, chapter 18-01.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2082.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 93            Nays 0            Absent 1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State