

ARTICLE 33-39
LODGING ESTABLISHMENTS

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CHAPTER 33-39-01
LODGING ESTABLISHMENT SANITATION STANDARDS

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33-39-01-01. Definitions.

For purposes of this chapter:

1. "Approved" means acceptable to the department based on compliance with applicable standards and public health practices.
2. "Clean" means free of visible stains, foreign material, organic material, soil, dirt, dust, sludge, grease, rubbish, garbage, slime, algae, fungi, mold, rust, mineral deposits, food debris, and other offensive, unsightly, or extraneous matter.
3. "Cleaning" means the removal of visible stains, foreign material, organic material, soil, dirt, dust, sludge, grease, rubbish, garbage, slime, algae, fungi, mold, rust, mineral deposits, food debris, and other offensive, unsightly, or extraneous matter from objects and is normally accomplished using water with detergents or enzymatic products and is required before sanitization or disinfection.
4. "Department" means the department of health and human services.
5. "Equipment" means an article that is used in the operation of a food establishment such as a freezer, microwave, hood, ice maker, mixer, oven, reach-in refrigerator, sink, slicer, stove, table, temperature measuring device for ambient air, coffee machine, or warewashing machine.
6. "Extensively remodeled" means significant physical changes to all or part of an establishment, including upgrades or replacement of major systems, such as the electrical, plumbing,

heating, or ventilation systems, demolition of interior or exterior areas, or installation or removal of walls. Extensively remodeled does not include routine replacements of equipment, furnishings, or fixtures that do not require new plumbing or electrical work.

7. "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
8. "Furnishings" means all articles or objects used in the establishment such as draperies, beds, mattresses, appliances, furniture, lamps, floor coverings, and decorative items.
9. "Good repair" means free of corrosion, breaks, leaks, cracks, chips, pitting, excessive wear and tear, obstructions, and similar defects to constitute a good and sound condition which is fully operational for the purpose intended.
10. "Guest" means a transient guest occupant of a guest room in a lodging establishment.
11. "Guest room" means any room used or intended to be used by a transient guest for sleeping accommodations.
12. "Imminent health hazard" means a fire, significant flooding, sewage backup, infestation, misuse of poisonous or toxic materials, evidence of water systems or recreational water facilities contaminated with legionella bacteria, gross unsanitary occurrence or condition, or any other condition that could endanger the health and safety of guests, employees, or the general public.
13. "Infestation" means the presence of pests, including bed bugs, cockroaches, or rodents, which is indicated by observation of living or dead pests or pest carapace, eggs or egg casings, or the typical brownish or blood-colored spotting on linens, mattresses, or furniture, or the presence of pest droppings.
14. "Linen" means a cloth item used in the lodging establishment, such as a sheet, bedspread, blanket, quilt, pillowcase, mattress pad, towel, and washcloth.
15. "Lodging establishment" means any hotel, motel, resort, building, or structure that is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished to transient guests for charge. The term does not include:
 - a. Single structures with five or fewer guest rooms and ten or fewer total occupants;
 - b. 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;
 - c. A facility providing personal care services directly through contract services as defined in North Dakota Century Code section 23-09.3-01 or 50-32-01; or
 - d. Primitive lodging cabins, lodges, or ranches.
16. "Pest" means any unwanted animal, including a rodent and insect, which is a potential vector for human disease or presents a risk to public health.
17. "Plumbing fixture" means a receptacle, device, or appliance such as a toilet, sink, shower, and faucet, which is supplied with water or receives liquid or liquid-borne wastes and discharges such wastes into the drainage system to which it may be directly or indirectly connected.

18. "Primitive lodging cabins, lodges, or ranches" means a cabin, lodge, or ranch that does not have indoor plumbing and may consist of a permanent structure such as a hut or cabin with walls and a floor or a moveable structure with fabric coverings such as a dome or a yurt.
19. "Sanitizing solution" means a pesticide used to kill bacteria and other microorganisms that may be present on surfaces used to prepare, serve, transport, and store food.
20. "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one-time, one-individual use after which they are intended for disposal.
21. "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded, such as wax paper, butcher paper, plastic wrap, aluminum containers, jars, plastic tubs, ketchup bottles, and number ten cans, which do not meet the standards under chapter 33-33-04.1.
22. "Time and temperature control for safety food" means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation.
23. "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware, tableware, and ice buckets, which are multiuse, single-service, or single-use; gloves used in contact with food; and temperature-sensing probes of food temperature measuring devices.
24. "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-02

33-39-01-01.1. General requirements for lodging establishments.

A lodging establishment shall:

1. Post the current license in a location of the lodging establishment which is conspicuous to the public.
2. Ensure no room or any portion of the lodging establishment is used unless the room or portion of the lodging establishment is safe and sanitary.
3. Ensure the safe operation and maintenance of the lodging establishment including:
 - a. All floors, walls, and ceilings of the general premises must be maintained clean and in good repair;
 - b. Repairs, construction, renovations, and maintenance must be conducted in a manner that provides safeguards as required by applicable state and local building and fire codes for guests and the public;
 - c. Handrails and guardrails must be firmly fastened and maintained clean and in good repair inside and outside the establishment;
 - d. All guest rooms and other areas used by guests or the public in which lighting, either natural or artificial, is essential to efficient business operations, must be well lit; and
 - e. Carpeting in toilet rooms, bathing facilities, and kitchens is prohibited.

4. Except as otherwise provided in this chapter, ensure the water supply system:
 - a. Is constructed, maintained, and operated in accordance with applicable law;
 - b. Provides only potable water obtained from an approved source; and
 - c. Provides sufficient potable water under pressure to meet the needs of the entire lodging establishment.
5. Except as otherwise provided in this chapter, ensure the plumbing system:
 - a. Is installed and maintained in accordance with all applicable state and local plumbing codes, and in the absence of local plumbing codes, all plumbing must be installed and maintained by a licensed plumber;
 - b. Provides potable water under pressure at all times at each plumbing fixture designed to provide water; and
 - c. Provides hot water capacity sufficient to meet the demands of the entire lodging establishment at each plumbing fixture designed to use hot water.
6. Except as otherwise provided in this chapter, ensure the sewage system disposes of all wastewater through an approved method, including one of the following:
 - a. A city or public sewage system; or
 - b. A private sewage disposal system that is constructed, maintained, and operated in accordance with the applicable state and local codes and regulatory requirements.
7. Ensure the electrical system is:
 - a. Installed and maintained in accordance with all applicable state and local electrical codes and in the absence of local electrical codes, the electrical wiring must be installed and maintained by a licensed electrician;
 - b. Adequate to maintain all premises lighting; and
 - c. Monitored to prohibit the use of light bulbs that exceed the wattage rating of the corresponding light fixture and empty light sockets.
8. Ensure adequate heating and ventilation is installed and maintained in accordance with all applicable state and local requirements and according to the manufacturer's specifications, including:
 - a. Bathrooms, toilet rooms, and laundry rooms must be provided with either natural ventilation or mechanical ventilation connected directly to the outside;
 - b. All gas water heaters, gas furnaces, and other gas heating appliances must be provided with ventilation to the outside;
 - c. Each furnace room or room containing a gas water heater or any other fuel-fired appliance must be provided with adequate air for circulation; and
 - d. Mechanical clothes dryers must be vented to the outside air. If vented to the outside air, the discharge may not create a health hazard.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09, 23-09-10, 23-09-16

33-39-01-02. Personnel - Employee health, cleanliness, and clothing.

1. An individual while infected with any communicable disease or a carrier of such a disease, or while having symptoms of boils, infected wounds, or sores must be excluded by the lodging establishment from any area of a lodging establishment in any capacity in which there is a likelihood of transmission of disease to other employees or guests in the normal course of employment.
2. Employees shall wear clean outer clothing and maintain personal cleanliness while on duty.
3. Employees shall wash hands thoroughly before starting work and as often as necessary to remove soil and contamination after using the toilet room or any other activity that contaminates the hands. Employees shall use sinks designated for handwashing and are prohibited from using mop sinks and ware washing sinks for handwashing.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-03. Ice and ice dispensing.

A lodging establishment shall meet the following requirements:

1. Ice must be manufactured, stored, transported, and handled in a manner approved by the department.
2. Ice, if provided in a public area to guests or the general public, must be provided through an automatic self-service dispensing machine only. The automatic self-service dispensing machine must be constructed to prevent direct access to bulk ice storage compartments by guests or the general public.
3. Ice machines other than the type specified in subsection 2 which allow direct access to the bulk ice storage compartments must only be accessible to employees, and:
 - a. Employees shall wash their hands prior to dispensing in accordance with chapter 33-33-04.1;
 - b. Employees shall dispense ice with scoops, tongs, or other ice-dispensing utensils;
 - c. Ice-dispensing utensils must be stored on a clean surface or in the ice with the dispensing handle extending out of the ice; and
 - d. Scooping of ice with a cup, glass, or similar container is prohibited.
4. Processes and controls must be designed and monitored to ensure all ice and ice-dispensing equipment is clean to sight and touch and maintained in accordance with the manufacturer's specifications such that neither the product nor the product area is subject to contamination.
5. Ice-dispensing utensils must be cleaned and sanitized in accordance with section 33-39-01-05 and a minimum of once every twenty-four hours or any time contamination may have occurred.
6. Ice machines used on the premises must be cleaned and sanitized in accordance with the manufacturer's specifications at the frequency recommended by the manufacturer.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-04. Guest rooms.

1. A lodging establishment shall provide toilet, sink, bathing or shower facilities, and plumbing fixtures in accordance with all state and local building and plumbing codes, including:
 - a. All plumbing fixtures must be provided with hot and cold running water under pressure at a maximum temperature of one hundred twenty degrees Fahrenheit [48.9 degrees Celsius] at the tap.
 - b. Bathing or shower facilities must have a nonslip floor surface: and
 - c. Toilets, sinks, bathing and shower facilities, and plumbing fixtures must be kept clean, sanitary, and in good repair when the guest room is in use and between each guest.
2. A lodging establishment's guest room must have walls, floors, ceilings, doors, windows, and all furnishings constructed of materials intended for its utilized purpose, maintained in good repair, and cleaned, painted, or replaced as necessary with regard to the health and safety of each guest.
3. The use of portable electrical or open-flame cooking devices in guest rooms is prohibited.
4. A lodging establishment's guest room must be equipped with bolts or locks in accordance with North Dakota Century Code chapter 23-09-08:
 - a. At least one secondary lock, such as a deadbolt lock, thumb bolt, chain lock, or similar device, must be provided in addition to the primary lock, and must be installed in accordance with the manufacturer's specifications;
 - b. Each key, entry code, or key card furnished to each guest may not unlock the door to any other guest room;
 - c. Connecting guest rooms must have two doors in the connecting doorway. Each door must be equipped with a deadbolt lock on only the guest's side of the door; and
 - d. All locks must be in good repair and operational.
5. A guest room that has any visible mold-like substance may not be used until the source is remediated and cleanup is completed.
6. A lodging establishment that allows pets into any guest room conspicuously shall provide notice to guests that the establishment is "pet friendly".

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-08, 23-09-09

33-39-01-05. Utensil and equipment warewashing.

1. A lodging establishment shall meet the following requirements:
 - a. All utensil and equipment warewashing must be in compliance with chapter 33-33-04.1, except as provided under subsection 2;
 - b. Sanitizing solutions must comply with chapter 33-33-04.1;
 - c. After warewashing, all utensils and equipment must be permitted to drain and air dry and must be handled in a manner that prevents contamination;

- d. After drying and until use, all contact surfaces of equipment and utensils must be wrapped, sealed, or stored in a manner that protects them from contamination; and
 - e. All utensils and equipment intended for repeat use must be made of safe, durable, and nonabsorbent material and must be kept in good repair, and no cracked or chipped utensils or equipment may not be provided for use by guests or employees.
2. A lodging establishment may provide utensils and equipment in a guest room if the following notice conspicuously is posted within the guest room:

"Notice to Guests: Utensils and equipment have been provided in this room for guest convenience. These items have been cleaned within this room using ordinary household dishwashing facilities and agents. They have not been sanitized according to federal and state standards for public food service establishments."

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-06. Single-service and single-use articles.

1. Lodging establishments which do not have facilities for warewashing utensils and equipment that meet the requirements in chapter 33-33-04.1 may only use single-service or single-use articles and shall meet the following requirements:
 - a. All single-service and single-use articles must be constructed of safe, durable, and nonabsorbent materials; and
 - b. All single-service or single-use articles must be stored, handled, and dispensed in a sanitary manner and may be used only once.
2. The use of common drinking containers in public places is prohibited.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-07. Beds and linen.

1. Lodging establishments shall provide linens for each guest and the linens must be sufficient in quantity and appropriately sized for the bed, bunk, or cot to be occupied by the guest, or each guest must be informed prior to their stay that linens are not provided.
2. Lodging establishments shall ensure:
 - a. All linens used by one guest are washed and mechanically dried before being furnished to another guest;
 - b. All linens and furnishings are kept clean, in good repair, stored in a sanitary manner, and repaired or replaced as necessary;
 - c. Soiled linens and furnishings are kept separate from clean linens to prevent cross-contamination;and
 - d. All clean linens are stored on smooth, nonabsorbent, cleanable surfaces located a minimum of six inches [152.4 millimeters] above the floor.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-08. Housekeeping and laundry facilities.

1. All parts of the lodging establishment and its premises must be kept neat, clean, and free from litter and rubbish.
2. Cleaning operations must be conducted by the lodging establishment in a manner that minimizes contamination of facilities.
3. A lodging establishment shall ensure guest rooms are cleaned between each guest.
4. Guests may request no housekeeping activities be completed during their stay.
5. All toilet paper and, if provided, prepackaged toiletry items, must be replenished as necessary.
6. All toilets, sinks, bathtubs, and shower facilities must be adequately cleaned and sanitized between each guest.
7. A lodging establishment shall ensure housekeeping and laundry facilities and equipment are clean and maintained in good repair.
8. Each housekeeping cart must be designed, maintained, and operated to protect clean glasses, utensils, dishware, single-service articles, food, coffee, and condiments from dirty linens and other sources of contamination, including dirty glasses and dishware, cleaning and sanitizing agents, and poisonous or toxic materials.
9. The laundry facilities and equipment must be kept clean and free from accumulated lint and dust.
10. All laundry equipment must be functional and in good repair.
11. Clean linens may not be contaminated by dirty linens or other contaminants.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-09. Water recreation facilities.

All water recreation facilities, including swimming pools, spas, and water slides operated by a lodging establishment and used by guests or the general public must be:

1. Designed, constructed, and maintained to protect the health and safety of its guests; and
2. Licensed and inspected by the applicable regulatory authority and in compliance with all state and local requirements. All records of licensure and inspection must be maintained onsite for at least one year and must be made available upon request.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-10. Submission of plans.

1. Whenever a lodging establishment is constructed or extensively remodeled, properly prepared plans and specifications for such construction or remodeling must be submitted to the

department for review and approval before construction or remodeling is begun. The plans and specifications must:

- a. Indicate the proposed layout, arrangement, and construction materials, paying particular attention to all fire or life safety provisions required by law; and
 - b. Include additional documentation as required by the department, which may include:
 - (1) Documentation of wastewater system, water system, and local planning and zoning approval from the applicable regulatory authority; and
 - (2) Certifications stating all work was completed in accordance with applicable plumbing, electrical, building, and fire codes.
2. The department shall approve the plans and specifications if they meet the requirements of this chapter and North Dakota Century Code chapter 23-09.

History: Effective October 1, 1998; amended effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-03, 23-09-06, 23-09-07, 23-09-09, 23-09-11

33-39-01-11. Fire safety.

A lodging establishment shall ensure the requirements of all applicable state and local fire codes are met. Fire and life safety requirements of lodging establishments must include the following:

1. Fire protection systems must be provided, maintained, and inspected as required by applicable state and local building and fire codes and chapter 33-33-05. Written records of maintenance and inspection must be provided to the department as requested;
2. Operable smoke detection and alarm systems must be installed, maintained, and inspected as required by applicable state and local building and fire codes and in accordance with chapter 33-33-05;
3. Fire extinguishers must be provided on each level of the building and within seventy-five feet [22.86 meters] of any point in the building and maintained annually; and
4. Emergency exits must be kept unlocked, unobstructed, and be indicated by operable exit lighting and signs.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-02.1, 23-09-03, 23-09-06, 23-09-07, 23-09-09

33-39-01-12. Food establishment license requirements at lodging establishments.

1. A lodging establishment that prepares, packages, serves, or otherwise provides food to guests or the general public shall obtain an appropriate food service license in accordance with chapter 33-33-04.1 and North Dakota Century Code section 23-09-16 and shall operate in accordance with all applicable laws and rules.
2. Lodging establishments that provide only non-time and temperature control for safety food that is commercially prepared, individually portioned, prepackaged, or whole uncut fresh produce are not required to apply for a food service license.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-01, 23-09-16

33-39-01-13. Employee and public toilets and toilet rooms.

Employee and public toilet rooms in lodging establishments must be:

1. In the number and capacity required by all state and local building and plumbing codes;
2. Equipped with adequate toilets and sinks in accordance with all state and local building and plumbing codes;
3. Equipped with self-closing doors;
4. Maintained clean and in good repair; and
5. If used by employees, accessible at all times and equipped with handwashing signs conspicuously posted in each toilet room notifying employees to wash their hands before returning to work.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-14. Poisonous or toxic materials.

1. A lodging establishment shall allow on the premises poisonous or toxic materials if they are used in the operation and maintenance of the lodging establishment, including:
 - a. Detergents, sanitizers, cleaning or drying agents, caustics, acids, polishes, and similar chemicals;
 - b. Insecticides and rodenticides;
 - c. Building maintenance materials, including paint, varnish, stain, glue, and caulking; and
 - d. Landscaping materials, including herbicides, lubricants, and fuel for equipment.
2. A lodging establishment shall meet the following requirements for the storage of poisonous or toxic materials:
 - a. Poisonous or toxic materials must be stored on separate shelves or in separate cabinets inaccessible to guests except for provided detergents and sanitizers for guest use, and these shelves and cabinets may be used for no other purpose; and
 - b. Poisonous or toxic materials may not be stored above food, ice or ice-making equipment, linens, towels, utensils, single-service articles, furnishings, or guest toiletry items.
3. A lodging establishment shall ensure the use of poisonous or toxic materials meets the following requirements:
 - a. Each bulk or original container of a poisonous or toxic material must bear a legible manufacturer's label and must be readily available for reference or inspection;
 - b. All poisonous or toxic materials taken from a bulk or original container and put into another container must be clearly identified with the common name of the material and the original manufacturer's label must be maintained onsite until that product has been discarded or completely used; and
 - c. Each poisonous or toxic material must be used according to the manufacturer's directions and additional safety requirements regarding the safe use of poisonous or

toxic materials may be established by the applicable regulatory authority upon later discovery of the unsafe use of these materials.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-15. Pests.

1. Every area of the lodging establishment premises must be free of any harborage conditions that may lead to or encourage infestations of rodents, insects, or any other pests.
2. If rodents, insects, any other pests, or evidence of pests are present, the lodging establishment shall use approved pest control measures, including cleaning and maintenance or replacement of seals for outer openings, tight fitting screens, or other means necessary for their elimination.
3. A lodging establishment shall consult a professional pest control management provider or certified commercial pesticide applicator to exterminate rodents, insects, or any other pests if determined necessary by the department.
4. The use of any pesticide classified by the environmental protection agency as restricted-use must be applied by a certified commercial pesticide applicator or an individual under the direct supervision of a certified commercial pesticide applicator and in accordance with all applicable statutes and regulations.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-16. Exterior premises and grounds maintenance.

1. A lodging establishment shall ensure the exterior areas and surfaces, including alleys, driveways, walkways, guardrails, handrails, balconies, landings, porches, decks, stairways, ramps, and parking areas are:
 - a. Maintained clean, well-drained, free of debris, and in good repair;
 - b. Adequately illuminated for guest safety; and
 - c. Free from safety hazards such as slippery surfaces or inappropriate storage of items in stairways, walkways, landings, and ramps.
2. A lodging establishment shall ensure garbage and refuse are:
 - a. Kept in leakproof, nonabsorbent receptacles that are:
 - (1) Kept covered with tight-fitting lids if filled, stored, or not in continuous use to minimize accessibility by rodents, insects, and other pests;
 - (2) Of sufficient number and capacity to prevent overflow accumulation; and
 - (3) Kept clean, in good repair, and replaced as necessary;
 - b. Removed from the premises at a frequency that minimizes the development of objectionable odors and other conditions that attract or harbor rodents, insects, and other pests; and

- c. Disposed of in a sanitary manner in compliance with state and local requirements.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09

33-39-01-17. Imminent health hazard.

A lodging establishment shall discontinue operations of the affected portions of the lodging establishment immediately upon discovery that an imminent health hazard exists. A proprietor shall notify the department by phone or email within twenty-four hours of identifying an imminent health hazard.

History: Effective April 1, 2026.

General Authority: NDCC 23-09-02

Law Implemented: NDCC 23-09-09