



## CHAPTER 23-09 LODGING ESTABLISHMENTS AND ASSISTED LIVING FACILITIES

**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 or 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. "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. "Department" means the state department of health.
5. "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, 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. "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. "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. "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. The term does not include a facility providing personal care services directly or through contract services as defined in section 23-09.3-01 or 50-32-01.
9. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.
10. "Proprietor" includes the person in charge of a food establishment, lodging establishment, or assisted living facility, whether as owner, lessee, manager, or agent.
11. "Pushcart" means a non-self-propelled vehicle limited to serving nonpotentially hazardous food or commissary-wrapped food maintained at proper temperatures.
12. "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. "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off premise 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. "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. "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. "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.

**23-09-02. State department of health to enforce provisions of chapter.** The department shall enforce the provisions of this chapter. Under no circumstances may any other state agency adopt rules that relate in any way to the provisions of this chapter.

**23-09-02.1. Smoke detection devices or other approved alarm systems - Administrative procedure and judicial review.** Each lodging establishment and assisted living facility shall install smoke detection devices or other approved alarm systems of a type and in the number approved by the department, in cooperation with the state fire marshal. The department, in cooperation with the state fire marshal, shall adopt reasonable rules governing the spacing and minimum specifications for approved smoke detection devices or other approved alarm systems. The department and state fire marshal shall provide all reasonable assistance required in complying with the provisions of this section.

**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 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.

**23-09-04. Fire escapes in hotels and lodgings not more than two stories high.** Repealed by S.L. 1985, ch. 292, § 5.

**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.

**23-09-06. Chemical fire extinguishers - Standpipes.** Each lodging establishment or assisted living facility must be provided with fire extinguishers as defined by the national fire protection association standard number ten in quantities as defined by the state building code and the state fire code. Standpipe and sprinkler systems must be installed as required by the state building code and state fire code. Fire extinguishers, sprinkler systems, and standpipe systems must conform with rules adopted by the state fire marshal. A contract for sale or a sale of a fire extinguisher installation in a public building is not enforceable, if the fire extinguisher or extinguishing system is of a type not approved by the state fire marshal for such installation. No

fire extinguisher of a type not approved by the state fire marshal may be sold or offered for sale within the state.

**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.

**23-09-08. Bolts or locks to be supplied on doors of sleeping rooms.** The doors of all rooms used for sleeping purposes in any lodging establishment within this state must be equipped with proper bolts or locks to permit the occupants of such rooms to lock or bolt the doors securely from within the rooms. The locks or bolts must be constructed in a manner that renders it impossible to unbolt or unlock the door from the outside with a key or otherwise, or to remove the key therefrom from the outside, while the room is bolted or locked from within. Any lodging establishment proprietor who fails to comply with this section is guilty of a class B misdemeanor.

**23-09-09. Sanitation and safety.** Every food establishment, lodging establishment, and assisted living facility must be operated with strict regard for the health, safety, and comfort of its patrons. The following sanitary and safety regulations must be followed:

1. Every food establishment, lodging establishment, and assisted living facility must be well constructed, drained, and provided with plumbing equipment according to established sanitary principles and must be kept free from effluvia arising from any sewerage, drain, privy, or other source within the control of the proprietor.
2. In municipalities in which a system of public water supply and sewerage is maintained, every food establishment, lodging establishment, and assisted living facility must be equipped with suitable toilets for the accommodation of its guests, and such toilets must be ventilated and connected by proper means of flushing with the water of said system. All lavatories, bathtubs, sinks, drains, and toilets must be connected with such sewerage system and installed according to all applicable plumbing codes.
3. When a sewerage system is not available, open toilets must be located not less than forty feet [12.19 meters] from all kitchens, dining rooms, and pantry openings and must be properly cleaned, screened, and disinfected as often as may be necessary to keep them in a sanitary condition.
4. All garbage and kitchen refuse must be kept in watertight containers with tight-fitting covers to prevent decomposition. No dishwater or other substance which is or may become foul or offensive may be thrown upon the ground near any food establishment, lodging establishment, or assisted living facility.
5. All bedrooms must be kept free from insects and rodents, and the bedding in use must be clean and sufficient in quantity and quality.
6. Each food establishment, lodging establishment, or assisted living facility shall keep in its main public washroom and available at all hours individual disposable paper towels, a continuous towel system that supplies the user with a clean towel, or a heated air hand drying device for the use of its guests.
7. Bathrooms, toilet rooms, and laundry rooms must be provided with either natural or mechanical ventilation connected directly to the outside.
8. All food establishments, lodging establishments, or assisted living facilities shall equip operable windows during the summer months with screens adequate to keep out insects.
9. Neither the dining room nor kitchen of any food establishment, lodging establishment, or assisted living facility may be used as a sleeping or dressing room by any employee of the hotel or restaurant or by any other person.

**23-09-10. Drinking water standards.** Every person operating a food establishment, lodging establishment, or assisted living facility shall see that the drinking water supplied therein is obtained from an approved source that is a public water system or a nonpublic water system that is constructed, maintained, and operated according to law.

**23-09-11. Inspection - Reports.** Every lodging establishment, food establishment, or assisted living facility must be inspected at least once every two years by the department. Food establishments and assisted living facilities must be inspected based on a system of risk categorization which involves types of foods served, the preparation steps these foods require, volume of food, population served, and previous compliance history. The department and its inspectors may enter any such establishment at reasonable hours to determine compliance with this chapter.

**23-09-12. Certificate of inspection - When issued - Posting.** Repealed by S.L. 1997, ch. 33, § 25.

**23-09-13. False certificate - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**23-09-14. Department to report to state fire marshal.** The department, before the sixth day of each month, shall report to the state fire marshal on all food establishments, lodging establishments, or assisted living facilities inspected by the department during the preceding month, paying particular attention in the report to the violation of any provision of this chapter relating to fire escapes and the installation and maintenance of automatic or other fire alarms and fire extinguishing equipment and to any other condition that might constitute a fire hazard in the premises so inspected. If no such violation or condition is found, the report must so state.

**23-09-15. Obstructing inspection - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**23-09-16. License - Application.** Before any food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility may be operated in this state, it must be licensed by the department. The department shall waive the license requirement for any food establishment, lodging establishment, or assisted living facility licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection rules are approved by the department. Application for license must be made to the department during December of every year, or before the operating of the food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility, as the case may be. The application must be in writing on forms furnished by the department and must be accompanied by the required fee. An additional amount of fifty percent of the license fee must be imposed upon renewal if the license was not renewed before February first following the expiration date. A reduced license fee in the amount of one-half the applicable license fee must be charged for a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility beginning operations after July first of each year and for changes in ownership and location of such existing establishments after July first of each year. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

**23-09-17. License fees.** Repealed by S.L. 2005, ch. 32, § 19.

**23-09-18. Failure to comply with chapter - Notice - How served.** Whenever the proprietor of any food establishment, lodging establishment, or assisted living facility fails to comply with this chapter, the proprietor must be given notice of the time within which the proprietor must meet the requirements. The notice must be in writing and delivered personally by an inspector of the department or sent by registered mail.

**23-09-19. State's attorney to prosecute violation.** The state's attorney of any county of this state, upon complaint on oath of an inspector of the department, shall prosecute in the name of the state of North Dakota a proper proceeding against any person violating any provision of this chapter.

**23-09-20. Requirements of fireproof hotel - Penalty for false advertising.** No person may advertise as fireproof a building or hotel unless all foundations, floors, roofs, walls, stairways, stairs, elevator shafts, and dumbwaiter shafts are constructed of concrete, brick, terra cotta blocks, steel, or other fireproof material. Any person violating the provisions of this section is guilty of a class A misdemeanor.

**23-09-20.1. Guest record.** A record must be kept in each lodging establishment in which every individual patronizing the lodging establishment shall write that individual's name and address and the number of members in the party who will occupy a room or rooms therein.

**23-09-21. Penalty - General.** Any person operating a food establishment, lodging establishment, or assisted living facility in this state, or letting a building used for such business, without first having complied with this chapter, is guilty of a class B misdemeanor.

**23-09-22. License canceled.** Whenever the proprietor of a food establishment, lodging establishment, or assisted living facility has been convicted of a violation of this chapter and for a period of ten days after the conviction fails to comply with any provision of this chapter, the department may cancel the proprietor's license.

**23-09-23. Exemption for bed and breakfast facilities.** This chapter does not apply to bed and breakfast facilities for which rules have been adopted under chapter 23-09.1.

**23-09-24. Salvaged food - License required.** It is unlawful for a person to claim to be a salvaged food distributor or to engage in the activity of selling, distributing, or otherwise trafficking in distressed or salvaged food, or both, at wholesale, without a license issued under this chapter authorizing that person to operate as a salvaged food distributor. A salvaged food distributor license may not be issued absent compliance with this section and any rules adopted to implement this section. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees under this section. License fees collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

## CHAPTER 33-33-05 SMOKE DETECTOR RULES

### Section

- 33-33-05-01 Smoke Detectors Required
- 33-33-05-02 Passageway Devices - General Alarm
- 33-33-05-03 Devices for the Hard of Hearing
- 33-33-05-04 Initial Testing and Certification
- 33-33-05-05 System Inspection - Testing - Maintenance

**33-33-05-01. Smoke detectors required.** Every sleeping room in a lodging establishment or assisted living facility shall be equipped with a smoke detection device which has been inspected and listed by underwriters laboratories, factory mutual engineering division or equivalent. Smoke detectors shall be installed in accordance with the manufacturer's installation instructions.

**History:** Effective August 1, 1988; amended effective January 1, 2008.

**General Authority:** NDCC 23-01-03(3), 23-09-02.1

**Law Implemented:** NDCC 23-09-02.1

**33-33-05-02. Passageway devices - General alarm.** Lodging establishments or assisted living facilities without direct access from sleeping rooms to the outside shall have hallways or exit corridors equipped with listed smoke detection devices. Hallway or exit corridor smoke detection devices shall be wired into an approved fire alarm system so as to sound an alarm when any of the smoke detection devices are activated. Audible signaling appliances shall be located so as to be clearly heard throughout the facility regardless of the maximum noise level under normal conditions of occupancy. In all cases one appliance must be installed at manufacturer's recommendations or for each thirty feet [9.15 meters] of hallway or exit corridor or fraction thereof.

**History:** Effective August 1, 1988; amended effective January 1, 2008.

**General Authority:** NDCC 23-01-03(3), 23-09-02.1

**Law Implemented:** NDCC 23-09-02.1

**33-33-05-03. Devices for the hard of hearing.** At least one sleeping room in every lodging establishment or assisted living facility shall be equipped with a listed smoke detection device capable of producing at least eighty-five decibels of sound at ten feet [3.05 meters] and capable of flashing a two hundred fifty watt bulb for a period of five minutes.

**History:** Effective August 1, 1988; amended effective January 1, 2008.

**General Authority:** NDCC 23-01-03(3), 23-09-02.1

**Law Implemented:** NDCC 23-09-02.1

**33-33-05-04. Initial testing and certification.** After a smoke detection system has been initially installed, the lodging establishment or assisted living facility owner or manager shall certify in writing to the state department of health that the system has been tested and that each smoke detection device is working properly. Copies of written installer certifications will be accepted as owner or manager certifications.

**History:** Effective August 1, 1988; amended effective January 1, 2008.

**General Authority:** NDCC 23-01-03(3), 23-09-02.1

**Law Implemented:** NDCC 23-09-02.1

### **33-33-05-05. System inspection - Testing - Maintenance.**

1. No smoke detection device shall be approved unless the device installer:
  - a. Instructs the owner or manager in the operation of the system.
  - b. Provides the owner or manager with a set of written instructions for the proper maintenance and testing of the system.

2. The owner or manager or designee of the owner or manager of a lodging establishment or assisted living facility shall test at least ten percent of the battery-operated smoke detectors weekly and at least ten percent of the hard-wired detectors monthly on a systematic basis. The owner or manager or designee of the owner or manager shall maintain written records for two years which:
  - a. Detail the date of the test, the units tested, the name of the person conducting the test, and the results of the test.
  - B Indicate the date, results, and name of the person conducting a complete system maintenance inspection and test. Complete tests shall be conducted once each year or more often as necessary to assure proper operational condition.
3. The owner or manager of a lodging establishment or assisted living facility is responsible for, and shall cause, the necessary maintenance service or repairs to be made to ensure proper operational conditions of the smoke detection system at all times.

**History:** Effective August 1, 1988; amended effective January 1, 2008.

**General Authority:** NDCC 23-01-03(3), 23-09-02.1

**Law Implemented:** NDCC 23-09-02.1

## CHAPTER 33-33-09 ASSISTED LIVING FACILITIES

Section

33-33-09-01	Emergency Lighting
33-33-09-02	Emergency Plans
33-33-09-03	Sprinkler Systems

### **33-33-09-01. Emergency lighting.**

Emergency lighting for means of egress shall be provided in all assisted living facilities. Emergency illumination shall be provided for not less than one and one-half hours in the event of failure of normal lighting. Emergency lighting facilities shall be arranged to provide initial illumination that is not less than an average of one footcandle [10 lux]. Where each living unit has a direct exit to the outside of the building at ground level, no emergency lighting shall be required.

**History:** Effective April 1, 2012.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

### **33-33-09-02. Emergency plans.**

All assisted living facilities must have a current, written emergency disaster plan. That plan must contain a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency. The emergency disaster plan must be readily available for review by any tenant, family member, or emergency responders. An emergency evacuation route should be posted prominently in the facility.

**History:** Effective April 1, 2012.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

### **33-33-09-03. Sprinkler systems.**

If sprinkled, systems should be inspected and maintained according to National Fire Protection Association 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems. Smoke detection systems shall be installed and maintained as specified in chapter 33-33-05.

**History:** Effective April 1, 2012.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02



**CHAPTER 33-39-01**  
**LODGING ESTABLISHMENT SANITATION STANDARDS**

Section

33-39-01-01	Definitions
33-39-01-02	Employee Health and Disease Control
33-39-01-03	Ice
33-39-01-04	Guest Room Toilet and Bathing Facilities
33-39-01-05	Utensil Washing
33-39-01-06	Single-Service Items
33-39-01-07	Bedding and Linen
33-39-01-08	Housekeeping
33-39-01-09	Water Recreation Facilities
33-39-01-10	Submission of Plans

**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. "Communicable disease" means any disease that can be directly or indirectly transmitted from person to person.
3. "Department" means the state department of health.
4. "Guest" means an occupant of a rental unit of a lodging establishment.
5. "Guest room" means any room used or intended to be used by a guest for sleeping purposes.
6. "Health hazard" means a chemical agent, source of filth, cause of sickness, or condition that is a health threat to others or a threat to the public health.
7. "Lodging establishment" means any hotel, motel, resort, building, or structure that is used to provide sleeping accommodations to the public for charge. The term does not include primitive lodging cabins, lodges, or ranches.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-02. Employee health and disease control.** A person, while affected with any communicable disease or a carrier of such a disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, may not work in any area of a lodging establishment in any capacity in which there is a likelihood of the person contaminating equipment with pathogenic organisms or transmitting disease to other individuals. If the owner or operator of the lodging establishment has knowledge of any employee who has contracted a communicable disease or has become a carrier of such a disease, the owner or operator shall immediately notify the department.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-03. Ice.** Ice, if provided to guests in a lodging establishment, must be manufactured, stored, transported, and handled in a manner approved by the department. Processes and controls must be designed and monitored to ensure that neither the product nor the product area is subject to contamination. Ice must be dispensed with scoops, tongs, or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment. Ice-dispensing utensils must be stored on a clean surface or in the ice with the dispensing handle extending out of the ice. Scooping of ice with a cup, glass, or similar container is prohibited. Ice storage bins must be drained through an air gap. When existing ice storage bins in areas accessible to the public are replaced, automatic self-service ice-dispensing equipment must be used.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-04. Guest room toilet and bathing facilities.** Each lodging establishment must provide toilet, lavatory, and bathing facilities. In lodging establishments providing toilet, lavatory, and bathing facilities shared by more than one guest room, the facilities must be provided in the ratio of one restroom for each ten guests, must be provided separately for each sex, and must be available on each floor. To determine the number of guests, a single-bed unit is designed for two people, and a double-bed unit is designed for four people. All facilities must be provided with hot and cold running water under pressure to each lavatory, shower, bathtub, and shower and bathtub combination at a maximum temperature of one hundred twenty degrees Fahrenheit [48.9 degrees Celsius] at the tap. Bathing or shower facilities must have a nonslip floor surface, such as a manufactured nonslip bathtub or shower unit, a rubberized throw mat, or adhesive-backed nonslip strips. All toilets, lavatories, and bathing fixtures must be kept clean, sanitary, and in good repair when the guest room is in use and between stays of different guests.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-05. Utensil washing.** Utensil washing must be in compliance with chapter 33-33-04. Sanitizing solutions must comply with 21 CFR section 178.1010. After cleaning and until use, all contact surfaces of equipment and utensils must be wrapped, sealed, or stored in a manner that protects them from contamination.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-06. Single-service items.** Lodging establishments which do not have facilities for cleaning and sanitizing utensils that meet the requirements in chapter 33-33-04 shall use single-service articles. All single-service articles must be stored, handled, and dispensed in a sanitary manner and may be used only once. The use of common drinking containers in public places is prohibited. Single-service articles must be made from clean, sanitary, and safe materials.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-07. Bedding and linen.** Lodging establishments that provide bedding and linen must furnish each guest with clean sheets and pillowcases for the bed, bunk, or cot to be occupied by the guest. Sheets must be of sufficient width and length to cover the mattress completely. All bath, linen, sheets, and pillowcases used by one guest must be washed and mechanically dried before being furnished to another guest. All bedding, including mattresses, mattress pads, quilts, blankets, pillows, sheets, and spreads, and all bath linen must be kept clean, in good repair, and stored in a sanitary manner. Soiled linens, uniforms, and other garments must be kept separate from clean linens to prevent cross-contamination. All clean linens must be stored on smooth, nonabsorbent; cleanable surfaces located a minimum of six inches [152.4 millimeters] above the floor.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-08. Housekeeping.** All parts of the lodging establishment and its premises must be kept neat, clean, and free from litter and rubbish. Operations or conditions may not constitute a health hazard. Cleaning operations must be conducted in a manner that minimizes contamination of facilities. Cleaning equipment, supplies, insecticides, paints, and other toxic or hazardous products may not be stored above or next to linens. All cleaners, sanitizers, and disinfectants must comply with 21 CFR section 178.1010. An ingredient label and

"direction for use" label on each chemical being used must be readily available for reference or inspection. All containers used for dispensing these chemicals must be prominently and distinctively labeled for identification of contents.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**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 public, must be designed, constructed, and maintained to protect the health and safety of its guests. A colorimetric test kit is required for the monitoring and adjusting of disinfectant levels and pH in swimming pools, spas, or other water recreational facilities. A daily log of disinfection levels and pH must be maintained by the owner of the facility.

**History:** Effective October 1, 1998.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**33-39-01-10. Submission of plans.** 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 indicate the proposed layout, arrangement, and construction materials, paying particular attention to all fire or life safety provisions required by law. 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.

**General Authority:** NDCC 23-09-02

**Law Implemented:** NDCC 23-09-02

**CHAPTER 33-39-02**  
**LICENSE FEES**

**33-39-02-01. License fees.** The following annual license fees must be paid by proprietors of lodging establishments:

1. For a lodging establishment containing not more than three sleeping rooms, forty dollars.
2. For a lodging establishment containing at least four but not more than ten sleeping rooms fifty-five dollars.
3. For a lodging establishment containing more than ten sleeping rooms and not more than twenty sleeping rooms, eighty dollars.
4. For a lodging establishment containing more than twenty sleeping rooms and not more than fifty sleeping rooms, one hundred dollars.
5. For a lodging establishment containing fifty-one sleeping rooms or more, one hundred twenty-five dollars.

**History:** Effective January 1, 2006; amended effective April 1, 2008.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-02