

November 14, 2025

Liz Fordahl, Counsel  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapter 33-39-01  
Lodging Establishment Sanitation Standards

Dear Ms. Fordahl:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to Amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in each official county newspaper which will notify the public that an oral hearing on these rules will be held on Friday, December 19, 2025, beginning at 12:30 p.m. and continuing until 2:00 p.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm  
Legal Division

JA/rv

cc: Julie Wagendorf, Food & Lodging  
Amy Illg, Food & Lodging  
Tim Wiedrich, Health Response & Licensure  
Dirk Wilke, Executive Director of Public Health Division

Enclosures

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NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO N.D.  
ADMINISTRATIVE CODE CHAPTER 33-39-01  
LODGING ESTABLISHMENT SANITATION STANDARDS

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 33-39-01 at 12:30 p.m. on Friday, December 19, 2025, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapter 33-39-01, Lodging Establishment Sanitation Standards, are as follows:

**Section 33-39-01-01** is amended to improve clarity and consistency of definitions, with the following new terms added to support the accurate application of rule language: “clean”, “cleaning”, “equipment”, “extensively remodeled”, “food”, “furnishings”, “good repair”, “imminent health hazard”, “infestation”, “linen”, “pest”, “plumbing fixture”, “primitive lodging cabins, lodges, or ranches”, “sanitizing solution”, “single-service articles”, “single-use articles”, “time and temperature control for safety food”, “utensil”, and “warewashing”. This section also amends the definitions of “department”, “guest”, “guest room”, and “lodging establishment” and removes the redundant or duplicative definition of “communicable disease.”

**Section 33-39-01-01.1** is created to provide general requirements for licensure and safety standards, including reference to state and local codes relating to building, fire, heating, ventilation and air handling systems, plumbing systems, electrical systems, water supply systems, and wastewater disposal systems.

**Section 33-39-01-02** is amended to clarify when employees must be excluded by the lodging establishment due to illness, and to add personal cleanliness, clean clothing, and handwashing requirements.

**Section 33-39-01-03** is amended to require that ice dispensed by guests or the general public must be provided through automatic self-service dispensing machines, and to require that ice machines that are not automatic self-service dispensing machines must only be accessible to employees who follow handwashing and dispensing sanitation requirements. This section also addresses when and how ice dispensing utensils and machines must be cleaned, sanitized, and maintained.

**Section 33-39-01-04** is amended to provide standards for toilets, sinks, bathing and shower facilities, and plumbing fixtures in a guest unit. The section

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is amended to clarify that plumbing fixtures must be in compliance with building and plumbing code. The section also establishes standards for maintenance of walls, floors, ceilings, doors, windows and furnishings, and door locks. The use of guest rooms with mold-like substances is prohibited, the use of portable electric or open-flame cooking devices is prohibited, and pet-friendly disclosure is required.

**Section 33-39-01-05** is amended to update requirements for utensil and equipment warewashing, to establish standards for utensils and equipment intended for repeat use, and to permit utensils and equipment to be provided in guest rooms for guest convenience if a proper notice is posted.

**Section 33-39-01-06** is amended to clarify the use of single-service and single-use articles, including what they must be constructed of, and when they are required.

**Section 33-39-01-07** is amended to clarify that sufficient linens must be provided for each guest, or if not, that guests must be notified prior to their stay that linens will not be provided. The section is amended to outline cleanliness, repair, and storage requirements for linens.

**Section 33-39-01-08** is amended to outline guest room cleaning frequency standards and toiletry requirements, to require that guest rooms are cleaned between each guest, and to require that housekeeping facilities, laundry facilities, and laundry equipment are cleaned and kept in good repair.

**Section 33-39-01-09** is amended to provide inspection and licensure standards for water recreation facilities at lodging facilities.

**Section 33-39-01-10** is amended to clarify that when a lodging establishment is to be constructed or extensively remodeled, the department may require as part of the plans documentation of wastewater system, water system, and local planning and zoning approval from the applicable regulatory authority, as well as certifications stating all work was completed in accordance with applicable codes.

**Section 33-39-01-11** is created to clarify fire safety requirements in alignment with applicable building and fire code, including fire protection systems, smoke detection and alarm systems, fire extinguishers, and emergency exits.

**Section 33-39-01-12** is created to clarify when a food establishment license is required at lodging establishments.

**Section 33-39-01-13** is created to establish standards for employee and public toilet rooms in lodging establishments.

**Section 33-39-01-14** is created to outline the requirements for the safe storage and use of poisonous or toxic materials for the lodging establishment operation.

**Section 33-39-01-15** is created to require the lodging establishment to be free from pests and harborage conditions, be cleaned, maintained, and repaired if pests are present, and to provide requirements for when an infestation or pest conditions necessitates that department approved pest control measures be implemented by a professional pest control management provider or certified commercial pesticide applicator.

**Section 33-39-01-16** is created to require that the exterior premises and grounds are maintained clean, well-drained, in good condition, adequately illuminated, and free from safety hazards. This section also requires that garbage and refuse is stored in appropriate containers which are kept clean and in good repair, removed at the necessary frequency, and disposed of correctly.

**Section 33-39-01-17** is created to require a lodging establishment to discontinue operation of the affected portions of the lodging establishment immediately upon discovery of an imminent health hazard, and to require the proprietor to notify the department within 24 hours of that discovery.

The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at human service zones offices and at the state-operated behavioral health clinics. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments must be received no later than 5:00 p.m. on Monday, December 29, 2025.

**ATTENTION PERSONS WITH DISABILITIES:** If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Health and Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 14th day of November, 2025.

**ARTICLE 33-39**  
**LODGING ESTABLISHMENTS**

Chapter	
33-39-01	Lodging Establishment Sanitation Standards
33-39-02	License Fees

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

Section	
33-39-01-01	Definitions
<u>33-39-01-01.1</u>	<u>General Requirements for Lodging Establishments</u>
33-39-01-02	<del>Personnel - Employee Health, Cleanliness, and Disease Control</del> <u>Clothing</u>
33-39-01-03	<del>Ice and Ice Dispensing</del>
33-39-01-04	<del>Guest Room Toilet and Bathing Facilities</del> <u>Rooms</u>
33-39-01-05	<del>Utensil Washing and Equipment Warewashing</del>
33-39-01-06	<del>Single-Service Items and Single-Use Articles</del>
33-39-01-07	<del>Bedding</del> <u>Beds</u> and Linen
33-39-01-08	<del>Housekeeping and Laundry Facilities</del>
33-39-01-09	Water Recreation Facilities
33-39-01-10	Submission of Plans
<u>33-39-01-11</u>	<u>Fire Safety</u>
<u>33-39-01-12</u>	<u>Food Establishment License Requirements at Lodging Establishments</u>
<u>33-39-01-13</u>	<u>Employee and Public Toilets and Toilet Rooms</u>
<u>33-39-01-14</u>	<u>Poisonous or Toxic Materials</u>
<u>33-39-01-15</u>	<u>Pests</u>
<u>33-39-01-16</u>	<u>Exterior Premises and Grounds Maintenance</u>
<u>33-39-01-17</u>	<u>Imminent Health Hazard</u>

**SECTION 1.** Section 33-39-01-01 is amended as follows:

**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~~Clean" means ~~any disease that can be directly or indirectly transmitted from person to person~~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 state 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.
- 4-10. "Guest" means ~~any~~ a transient guest occupant of a ~~rental unit of~~ guest room in a lodging establishment.
- 5-11. "Guest room" means any room used or intended to be used by a transient guest for sleeping ~~purposes~~ accommodations.
- 6-12. "~~Health~~ Imminent health hazard" means a ~~chemical agent, source of filth, cause of sickness~~ 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 is a could endanger the health threat to others or a threat to the public health and safety of guests, employees, or the general public.

13. "Infestation" means the presence of pests, which includes 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 cloth items used in the lodging establishment, such as sheets, bedspreads, blankets, quilts, pillowcases, mattress pads, towels, and washcloths.
- 7.15. "Lodging establishment" means any hotel, motel, resort, building, or structure that is ~~used to provide~~kept, used, maintained, or held out to the public as a place where sleeping accommodations to the public are furnished to transient guests for charge. The term does not include ~~primitive~~;
- 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 sections 23-09.3-01 or 50-32-01; or
  - d. Primitive lodging cabins, lodges, or ranches.
16. "Pest" means any unwanted animal, including rodents and insects, that 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 toilets, sinks, showers, and faucets, that is supplied with water or that 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 which 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 that 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

**SECTION 2.** Section 33-39-01-01.1 is created as follows:

**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 that is conspicuous to the public.
2. Ensure that 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 both 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 that 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 that 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 that 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 that 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 which exceed the wattage rating of the corresponding light fixture and empty light sockets.
8. Ensure that 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. When 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

**SECTION 3.** Section 33-39-01-02 is amended as follows:

**33-39-01-02. ~~Employee~~Personnel - Employee health, cleanliness and disease control~~clothing~~.**

- 1. A ~~person~~, An individual while affected~~infected~~ with any communicable disease or a carrier of such a disease, or while ~~afflicted with~~having symptoms of boils, infected wounds, or sores, ~~or an acute respiratory~~

~~infection, may not work in~~ must be excluded by the lodging establishment from 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 transmission of 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 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 warewashing sinks for handwashing.

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

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

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

**SECTION 4.** Section 33-39-01-03 is amended as follows:

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

A lodging establishment shall meet the following requirements:

1. Ice, if provided to guests in a lodging establishment, 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 that 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 that 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. Ice must be dispensed with scoops, tongs, or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment.
  5. 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. When existing ice storage bins in areas accessible to the public are replaced, automatic self-service ice-dispensing equipment must be used 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 23-09-02 23-09-09

**SECTION 5.** Section 33-39-01-04 is amended as follows:

**33-39-01-04. Guest room toilet and bathing facilities rooms.**

1. EachA lodging establishment mustshall provide toilet, lavatorysink, and bathing or shower 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., and plumbing fixtures in accordance with all state and local building and plumbing codes, including:
  - a. All facilitiesplumbing fixtures 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;

- ~~b. 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; and~~
  - ~~c. Toilets, lavatories, sinks, and bathing and shower facilities, and plumbing fixtures are~~must be kept clean, sanitary, and in good repair when the guest room is in use and between stays of different guests each guest.
- 2. Each 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 room 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. Each lodging establishment that allows pets into any guest room shall conspicuously 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 ~~23-09-02~~23-09-08, 23-09-09

**SECTION 6.** Section 33-39-01-05 is amended as follows:

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

1. A lodging establishment shall meet the following requirements:

- a. ~~Utensil washing~~All utensil and equipment warewashing must be in compliance with chapter ~~33-33-04~~33-33-04.1, except as provided under subsection 2;
- b. Sanitizing solutions must ~~comply with 21 CFR section 178.1010~~be in compliance 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 ~~cleaning~~drying and until use, all food-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 non-absorbent material and must be kept in good repair, and no cracked or chipped utensils or equipment may 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 is conspicuously 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 ~~23-09-02~~23-09-09

**SECTION 7.** Section 33-39-01-06 is amended as follows:

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

1. Lodging establishments which do not have facilities for ~~cleaning and sanitizing~~warewashing utensils and equipment that meet the requirements in chapter ~~33-33-04~~shall33-33-04.1 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 non-absorbent 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. Single-service articles must be made from clean, sanitary, and safe materials.

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

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

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

**SECTION 8.** Section 33-39-01-07 is amended as follows:

**33-39-01-07. ~~Bedding~~Beds and linen.**

- 1. Lodging establishments that provide bedding and linen must furnish~~shall provide linens for each guest with clean sheets and pillowcases and the linens must be sufficient in quantity and appropriately sized 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, or each guest must be informed prior to their stay that linens will not be provided.~~
- 2. Lodging establishments shall ensure that:
  - a. All bath, linen, sheets, and pillowcases~~linens~~ used by one guest must be~~are~~ washed and mechanically dried before being furnished to another guest.;
  - b. All bedding including mattresses, mattress pads, quilts, blankets, pillows, and sheets, and spreads, and all bath linen must be~~linens and furnishings are~~ kept clean, in good repair, and stored in a sanitary manner, and repaired or replaced as necessary;
  - c. Soiled linens, uniforms, and other garments must be~~and furnishings are~~ kept separate from clean linens to prevent cross-contamination.;
  - d. All clean linens must be~~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 ~~23-09-02~~23-09-09

**SECTION 9.** Section 33-39-01-08 is amended as follows:

**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. ~~Operations or conditions may not constitute a health hazard.~~
2. Cleaning operations must be conducted by the lodging establishment 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.~~
3. A lodging establishment shall ensure that guest rooms are cleaned between each guest:
  - a. Guests may request no housekeeping activities be completed during their stay;
  - b. All toilet paper and, if provided, prepackaged toiletry items, must be replenished as necessary; and
  - c. All toilets, sinks, bathtubs, and shower facilities must be adequately cleaned and sanitized between each guest.
4. A lodging establishment shall ensure that housekeeping and laundry facilities and equipment are clean and maintained in good repair:
  - a. 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;
  - b. The laundry facilities and equipment must be kept clean and free from accumulated lint and dust;
  - c. All laundry equipment must be functional and in good repair; and
  - d. 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 ~~23-09-02~~23-09-09

**SECTION 10.** Section 33-39-01-09 is amended as follows:

**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 designed:

1. 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; 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 ~~23-09-02~~23-09-09

**SECTION 11.** Section 33-39-01-10 is amended as follows:

**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 indicate:
  - 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 ~~23-09-02~~23-09-03, 23-09-06, 23-09-07, 23-09-09, 23-09-11

**SECTION 12.** Section 33-39-01-11 is created as follows:

**33-39-01-11. Fire safety.**

Each lodging establishment shall ensure that 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

**SECTION 13.** Section 33-39-01-12 is created as follows:

**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

**SECTION 14.** Section 33-39-01-13 is created as follows:

**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

**SECTION 15.** Section 33-39-01-14 is created as follows:

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

1. A lodging establishment shall only allow on the premises poisonous or toxic materials that 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 that the use of poisonous or toxic materials meet 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

**SECTION 16.** Section 33-39-01-15 is created as follows:

**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 or any other pests, or evidence thereof, 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 when determined to be necessary by the department.
4. The use of any pesticide classified by the environmental protection agency as restricted-use shall be applied only 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

**SECTION 17.** Section 33-39-01-16 is created as follows:

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

1. A lodging establishment shall ensure that 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 that garbage and refuse are:
  - a. Kept in leakproof, nonabsorbent receptacles which are:
    - (1) Kept covered with tight-fitting lids when 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 which will minimize 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

**SECTION 18.** Section 33-39-01-17 is created as follows:

**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. Each 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

November 14, 2025

RE: Proposed Amendments to N.D. Admin. Code chapter 33-39-01  
Lodging Establishment Sanitation Standards

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapter 33-39-01, Lodging Establishment Sanitation Standards. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Monday, December 29, 2025.

The department has scheduled an oral hearing for Friday, December 19, 2025. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Emily O'Brien  
Deputy Commissioner

EMO/rv

Enclosures

cc: Liz Fordahl, Legislative Council  
Julie Wagendorf, Food & Lodging  
Amy Illg, Food & Lodging  
Tim Wiedrich, Health Response & Licensure  
Dirk Wilke, Executive Director of Public Health Division

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