

Introduced by

State and Local Government Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact sections 23-09-01, 23-09-03, 23-09-05, and 23-09-07 of  
2 the North Dakota Century Code, relating to food and lodging establishments and assisted living  
3 facilities.

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

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

7 **23-09-01. Definitions.**

8 In this chapter, unless the context otherwise requires:

- 9 1. "Assisted living facility" means a building or structure containing a series of at least  
10 five living units operated as one entity to provide services for five or more individuals  
11 who are not related by blood, marriage, or guardianship to the owner or manager of  
12 the entity and which is kept, used, maintained, advertised, or held out to the public as  
13 a place that provides or coordinates individualized support services to accommodate  
14 the individual's needs and abilities to maintain as much independence as possible. An  
15 assisted living facility in this chapter includes a facility that is defined as an assisted  
16 living facility in any other part of the code. An assisted living facility does not include a  
17 facility that is a congregate housing facility, licensed as a basic care facility, or licensed  
18 under chapter 23-16, chapter 23-17.7, chapter 25-16, or section 50-11-01.4.
- 19 2. "Bakery" means an establishment or any part of an establishment that manufactures  
20 or prepares bread or bread products, pies, cakes, cookies, crackers, doughnuts, or  
21 other similar products, or candy, whether plain; chocolate or chocolate coated; mixed  
22 with nuts, fruits, or other fillers; covered with chocolate or other coating; and shaped,  
23 molded, or formed in various shapes. The term does not include food service  
24 establishments nor home cake decorators.

1           3. "Child care food service establishment" means food service that is prepared in a  
2           kitchen owned and operated by a child care provider licensed in accordance with  
3           chapter 50-11.1 for more than thirty children.

4           4. "Commissary" means a catering establishment, restaurant, or any other place in which  
5           food, containers, or supplies are kept, handled, prepared, packaged, or stored,  
6           including a service center or base of operations directly from which mobile food units  
7           are supplied or serviced. The term does not include an area or conveyance at a  
8           vending machine location used for the temporary storage of packaged food or  
9           beverages.

10          4.5. "Department" means the department of health and human services.

11          5.6. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop,  
12          cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain,  
13          tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat market, food  
14          processing plant, school, child care, mobile or temporary food establishment, or similar  
15          place in which food or drink is prepared for sale or service to the public on the  
16          premises or elsewhere with or without charge.

17          6.7. "Food processing plant" means a commercial operation that manufactures, packages,  
18          labels, or stores food for human consumption and does not provide food directly to a  
19          consumer.

20          7.8. "Limited restaurant" means a food service establishment that is restricted to a specific  
21          menu as determined by the department or an establishment serving only prepackaged  
22          foods, such as frozen pizza and sandwiches, which receive no more than heat  
23          treatment and are served directly in the package or on single-serve articles.

24          8.9. "Lodging establishment" includes every building or structure, or any part thereof, which  
25          is kept, used, maintained, or held out to the public as a place where sleeping  
26          accommodations are furnished for pay to transient guests for a charge. The term does  
27          not include a facility providing personal care services directly or single structures with  
28          five or fewer guest rooms and ten or fewer total occupants, a series or group of  
29          buildings or structures containing five or fewer guest rooms and ten or fewer total  
30          occupants operated as one entity under a single ownership on the same property or

1            physical location, or a facility providing personal care services directly through contract  
2            services as defined in section 23-09.3-01 or 50-32-01.

3            ~~9.10.~~ "Mobile food unit" means a vehicle-mounted food service establishment designed to  
4            be readily movable.

5            ~~40.11.~~ "Proprietor" includes the person in charge of a food establishment, lodging  
6            establishment, or assisted living facility, whether as owner, lessee, manager, or agent.

7            ~~44.12.~~ "Pushcart" means a non-self-propelled vehicle limited to serving nonpotentially  
8            hazardous food or commissary-wrapped food maintained at proper temperatures.

9            ~~42.13.~~ "Restaurant" includes every building or other structure, or any part thereof, and all  
10           buildings in connection therewith, that are permanently kept, used, maintained,  
11           advertised, or held out to the public as a place where meals or lunches are served, but  
12           where sleeping accommodations are not furnished. The term includes a limited  
13           restaurant restricted to a specified menu.

14           ~~43.14.~~ "Retail food store" means any establishment or section of an establishment where  
15           food and food products are offered to the consumer and intended for offpremise  
16           consumption. The term includes a delicatessen that offers prepared food in bulk  
17           quantities only. The term does not include an establishment that handles only  
18           prepackaged nonpotentially hazardous foods, roadside market that offers only fresh  
19           fruits and vegetables for sale, food service establishment, or food and beverage  
20           vending machine.

21           ~~44.15.~~ "Retail meat market" means a commercial establishment and buildings or structures  
22           connected with it, used to process, store, or display meat or meat products for retail  
23           sale to the public for human consumption. The term does not include a meat  
24           establishment operating under the federal or state meat inspection program.

25           ~~45.16.~~ "Salvage processing facility" means an establishment engaged in the business of  
26           reconditioning or by other means salvaging distressed merchandise for human  
27           consumption or use.

28           ~~46.17.~~ "Temporary food service establishment" means any food service establishment that  
29           operates at a fixed location for not more than fourteen consecutive days. The term  
30           does not include a nonprofit public-spirited organization or person providing a limited  
31           type of food service as defined in chapter 23-09.2.

1 | 17.18. "Transient guest" means occupancy of a guest room for a period of fewer than thirty  
2 | consecutive days or one month, whichever is more.

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

5 | **23-09-03. Exiting requirements.**

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

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

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

18 | **23-09-05. Fire escapes to be kept clear - Notice of location and use of fire escapes**  
19 | **required.**

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

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

26 | **23-09-07. Lodging establishments or assisted living facilities with elevators -**  
27 | **Protection to prevent spread of fire.**

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