

**First District Health Unit**  
**Rules and Requirements for Facilities Including Lodging, Tanning and Child Care Center**  
**Establishments**

The following regulations, promulgated by the First District Health Unit and approved by resolution of the First District Board of Health on June 28, 2018 and effective January 1, 2019, as authorized by Section 23-35-08 of the ND Century Code, shall govern the operation of all assisted living, bed and breakfast, child care center, motel, hunting lodge/outfitter, campground, tanning, trailer park, mobile home park, and crew housing facilities located in the counties of the First District Health Unit. All such facilities shall operate in a manner consistent with the following rules and regulations. Nothing in these rules or regulations is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability and safety over those prescribed herein.

**Section I. Definitions.** In this Code, unless the context or subject matter otherwise requires, the following definitions shall apply to terms used. Where terms are not defined, they shall be defined using their ordinarily accepted meanings within the context in which they are used. The most current version of the Merriam-Webster's Collegiate Dictionary shall be the source for the ordinarily accepted meaning.

- 1-1. **"Applicant"** means any person that applies to the Department for a license.
- 1-2. **"Approved"** means acceptable to the Department based on a determination as to conformance with applicable standards and good public health practices.
- 1-3. **"Accessory building or structure"** means a building or structure that is in addition to a mobile home or that supplements the facilities provided in a mobile home. It is not a self-contained, separate habitable building or structure.
- 1-4. **"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 Code includes a facility that is defined as an assisted living facility in any other Code, rule or regulation. 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 of the North Dakota Century Code.
- 1-5. **"Bed and Breakfast facility"** means a private home that is used to provide accommodations to the public, with not more than seven lodging units, in which no more than two family-style meals per day are provided.
- 1-6. **"Bedding"** means any blankets, quilts, comforters, pillows, throws, or any other items on a bed other than the items herein defined as "linens", mattresses, box springs and bed frames.
- 1-7. **"Campground"** means any parcel of land containing three or more lots intended for occupancy by tents. Campgrounds shall be designated as one of the following:
  - A. "Primitive campgrounds" are those accessible only by walk-in, pack-in, or equestrian campers and that are not equipped with any facilities.

- B. “Semi-primitive campgrounds” are those accessible by road and if provided with facilities for the comfort and convenience of guests are only provided with rudimentary facilities (such as privies or vault toilets and wells equipped with hand pumps).
- C. “Developed campgrounds” are those that are not “primitive campgrounds” or “semi-primitive campgrounds”.

- 1-8. “**Child care center**” means a facility that is required to meet the requirements found in ND Administrative Code Chapters 75-03-10-18 or 75-03-09-18.
- 1-9. “**Cleaned**” means the three-step process in which food contact surfaces are washed in a detergent solution, rinsed free of detergent and residue, and then sanitized in an approved sanitizing step.
- 1-10. “**Cloth**” means any wiping, wash, or bath cloths or towels used by staff or guests in any facility.
- 1-11. “**Communicable disease**” means any disease that can be directly or indirectly transmitted from person to person.
- 1-12. “**Corrosion-resistant material**” means a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds, and sanitizing solutions which may contact it.
- 1-13. “**Cottage food**” means those foods produced under chapter 23-09.5 of the ND Century Code and any accompanying guidance or rules found in the ND Administrative rules.
- 1-14. “**Customer**” means a member of the public that is provided lodging accommodations, child care or access to a tanning device whether for a fee or not or to a tanning device as part or benefit of a membership in or access to a health club, spa, condominium ownership, apartment complex activity center, lodging establishment room or sleeping unit rental or other offer.
- 1-15. “**Department**” means the First District Health Unit or its designated representative.
- 1-16. “**Easily cleanable**” means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- 1-17. “**Employee**” means the license holder, individuals having supervisory or management duties, and any other person working in a facility or at any food or swimming pool facility located in or affiliated with a facility and for which the license holder for the lodging facility and food or swimming pool facility is the same.
- 1-18. “**Equipment**” means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items other than utensils used in the operation of any food service operation or any operations involving food, single service items or food contact surfaces located in any facility. Equipment may also mean anything located on the premises of a facility that is not part of the physical structure and that is used by patrons of the facility or that is used during the operation of the facility by any employee.

- 1-19. **“Facility”** means any child care center, tanning establishment, motel, mobile home park, bed and breakfast, assisted living establishment, hunting lodge/outfitter, campground, trailer park, crew housing facility, or other establishment that meets criteria contained in this code that makes it eligible for licensure or that has been determined by the Department to meet criteria making it eligible for licensure. Unless otherwise specified, when “facility” is used, it means all the types of establishments contained in this definition.
- 1-20. **“Family style meal”** means a meal ordered by persons staying at a bed and breakfast facility that is served from common food containers, as long as any food not consumed by those persons is not reused or fed to other people if the food is unwrapped.
- 1-21. **“Food”** means any raw, cooked, processed edible substance, or combination of substances, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption. “Food”, unless otherwise specified, when used herein refers to those non-TCS foods allowed to be provided or sold in a facility that do not require a separate food establishment license.
- 1-22. **“Food contact surfaces”** means those surfaces of equipment and utensils with which food normally comes into direct contact, and those surfaces with which food may come into contact and drain back onto surfaces normally in contact with food. Food contact surfaces used by customers in facilities are covered by the requirements contained in this regulation.
- 1-23. **“Food establishment”**:
- A. “Food establishment” means an operation that stores, prepares, packages, serves, or vends food directly to the consumer:
    - 1. Such as a restaurant; a satellite or catered feeding location; a catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; a market; a vending location; a conveyance used to transport people that also serves food, such as a train; an institution; or a food bank; and
    - 2. That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
  - B. “Food establishment” includes:
    - 1. Any element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or a satellite feeding location unless the vending or feeding location is separately permitted by the Department; and
    - 2. Any operation that is conducted in a mobile, stationary, temporary, or permanent facility or location whether consumption of the food happens on or off of the premises and regardless of whether there is a charge for the food.
    - 3. Any facility that grows, prepares, packages, supplies, or vends food to or for any food establishment licensed by the Department if that facility is:
      - a. Located in the First District Health Unit; and
      - b. Not regulated by, licensed by and inspected by the regulatory authority in a manner approved by the Department.
  - C. “Food establishment” does not include:
    - 1. An establishment that offers only prepackaged foods that are made in a commercial establishment that is regulated by the regulatory authority, as long as the prepackaged foods are not potentially hazardous and as long as no

opening of the packages, preparation of the foods, or alteration or modification of the food occurs;

2. A produce stand that only offers whole, uncut fresh fruits and vegetables for consumption off premises;
  3. A kitchen in a private home if the food that is prepared is for sale or service at a function such as a religious or charitable organization's bake sale and if the food that is prepared is not a TCS food;
  4. Any person or organization exempted under Section 23-09.2 of the ND Century Code.
  5. A private home that receives catered or home-delivered food.
- 1-24. **“Guest”** means an occupant of a rental unit of a lodging establishment.
- 1-25. **“Guest room”** means any room used or intended to be used by a guest for sleeping purposes.
- 1-26. **“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.
- 1-27. **“Hotel”** See “Motel.”
- 1-28. **“Hunting lodge”** means any establishment at which lodging and/or food are provided to any person or group of persons which is not a hotel, motel, assisted living facility, crew housing facility, summer camp or bed and breakfast.
- 1-29. **“Individualized support services”** means services provided to individuals who may require assistance with the activities of daily living including bathing, dressing, toileting, transferring, eating, medication management and personal hygiene.
- 1-30. **“Kitchenware”** means all multiuse utensils other than tableware.
- 1-31. **“Law”** includes applicable federal, state, and local statutes, ordinances, and regulations.
- 1-32. **“License”** means the document issued by the Department that authorizes a child care center lodging establishment, swimming pool facility, tanning establishment, or food establishment to operate in the boundaries of the First District Health Unit. A license issued by the Department is not valid for any activities that occur outside the boundaries of the First District Health Unit.
- 1-33. **“License holder”** means any entity that is legally responsible for the operation of the child care center, lodging establishment, swimming pool facility, or food establishment such as the owner, the owner's agent, or other person; and that possesses a valid license to operate a child care center, lodging establishment, swimming pool facility, tanning establishment, or food establishment.
- 1-34. **“Linens”** means any bed sheets or pillowcases for beds used by customers in a facility.
- 1-35. **“Living unit”** means a portion of a facility that contains a sleeping area, an entry door that can be locked, and a private bath with a toilet, bathtub or shower and sink and that is occupied as permanent or temporary living quarters for a person or persons who have entered into an agreement with the proprietor of the facility.

- 1-36. **“Lodging establishment”** means any building or structure or part thereof or lot or parcel of land which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to transient guests. Lodging establishment includes any hotel, motel, resort, bed and breakfast, assisted living facility, summer camp, temporary crew housing facility, mobile home park, trailer park, campground, hunting lodge/outfitter or other building or structure or parcel or lot used to provide sleeping accommodations to the public for a charge.
- 1-37. **“Lodging unit”** means a room with one or more beds for an unspecified number of persons.
- 1-38. **“Lot”** means any piece of land of required size intended for occupancy by a mobile home, travel trailer or tent.
- 1-39. **“Mobile Home”** means any relocatable structure or unit that is designed to be used as living quarters.
- 1-40. **“Mobile Home Park”** means any parcel of land containing three or more lots intended for occupancy by mobile homes.
- 1-41. **“Motel”** means any building or structure, or any part thereof that is kept, used, maintained or held out to the public as a place where sleeping accommodations are furnished to transient guests. This term includes any hotel, motel, resort, building or structure but does not include a facility providing personal care directly or through contract as defined in section 23-09.3-01 of the North Dakota Century Code. This term does not include primitive lodging cabins, hunting lodges/outfitters, bed and breakfasts, or ranches.
- 1-42. **“Occupied Area”** means the total of all the lot covered by a mobile home and roofed mobile home accessory buildings and structures on a mobile home lot.
- 1-43. **“Operator”** means an individual designated by the license holder to oversee tanning facility operations and whose duties shall include assisting and instructing customers in the correct operation of a tanning device.
- 1-44. **“Outfitter”** means any person who takes guests or clients out to any type of a short or long-term camp for a fee, charge or donation and who provides sleeping accommodations and food/meals to those guests or clients.
- 1-45. **“Perishable food”** means any food of such type or in such condition as may spoil.
- 1-46. **“Person”** means any individual, firm, trust, and partnership, public or private association, corporation, or limited liability company.
- 1-47. **“Phototherapy device”** means equipment that emits ultraviolet radiation and is used in treating disease.
- 1-48. **“Physical facilities”** or **“physical structure”** means the structure and interior surfaces of a facility including accessories such as soap and towel dispensers and attachments, such as light fixtures and heating or air-conditioning system vents.

- 1-49. **“Plumbing fixture”** means a receptacle or device that:
- A. Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
  - B. Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.
- 1-50. **“Plumbing system”** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices and appurtenances within the premises; and water treating equipment.
- 1-51. **“Potentially hazardous food”** means any perishable food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term potentially hazardous food has been replaced with the term “time/temperature control for safety food” or “TCS food” in the FDHU Requirements for Food and Beverage Establishments and will be referred to as such in all parts of this Code with the exception of Section 6: Bed and Breakfast Facilities.
- 1-52. **“Premises”** means the physical facility, its contents, and the contiguous land or property under the control of the license holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the license holder that may impact facility personnel, facilities, or operations, if a facility is only one component of a larger organization.
- 1-53. **“Private home”** means a place of residence of an individual or family.
- 1-54. **“Proprietor”** means the person in charge of a facility; whether as owner, lessee, manager or agent.
- 1-55. **“Protective eyewear”** means any apparatus designed to be worn over the eyes by a user of tanning devices that absorbs all UV-A, UV-B and visible light up to 500 nanometers but permits sufficient light to pass through to allow a user to safely negotiate obstacles, and that complies with the standards set forth in 21 CFR 1040.20.
- 1-56. **“Radiation”** means ultraviolet radiation.
- 1-57. **“Recreational Vehicle”** or “RV” means a travel trailer.
- 1-58. **“Refuse”** means solid waste not carried by water through the sewage system.
- 1-59. **“Safe”** means free from threat of harm or risk.
- 1-60. **“Sanitize”** means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, yields a reduction of five logs, which is equal to 99.999 percent reduction, of representative disease microorganisms of public health importance.
- 1-61. **“Sealed”** means free of cracks or other openings that permit the entry or passage of moisture.

- 1-62. **“Service Building”** means a structure housing shower, bath, toilet, lavatory, and other such facilities as may be required by the North Dakota state plumbing Code.
- 1-63. **“Sewage”** means liquid waste containing animal or vegetable matter in suspension or solution or the water-carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water carried waste of human origin or containing putrescible material.
- 1-64. **“Single-service articles”** means cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials and all similar articles that are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic synthetic or readily destructible materials and that are intended for one usage only and then to be discarded.
- 1-65. **“Sleeping unit”** means an area of any lodging establishment, including bed and breakfast facilities, where a bed, cot, bunk or some other piece of furniture is located and that is intended to be an area for guests to sleep.
- 1-66. **“Summer camp”** means an establishment that provides recreational and athletic facilities for people, usually during the summer months, and that involve providing food and/or overnight accommodations.
- 1-67. **“Swimming pool”** means any structure, basin, chamber or tank containing an artificial body of water for swimming, diving, recreational bathing, or wading. Unless otherwise noted, the terms “swimming pool” or “pool” will be used to refer to all swimming, diving, training, plunge, wading pools, spas, or interactive water fountains (where applicable).
- 1-68. **“TCS food”** means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.
- A. TCS food includes:
1. An animal food (a food of animal origin) that is raw or heat-treated;
  2. A food of plant origin that is heat-treated or that consists of raw seed sprouts;
  3. Cut melons;
  4. Garlic and oil mixtures that have not been modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation;
  5. Cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation;
  6. Cut leafy greens.
  7. Except as specified in part B below, a food that because of the interaction of its  $A_w$  and pH values is designated as Product Assessment Required in Table A or B below:

**Table A. Interaction of pH and  $a_w$  for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged**

$a_w$ values	pH: 4.6 or less	pH: > 4.6 -5.6	pH: > 5.6
<0.92	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD
> 0.92 -0.95	non-TCS FOOD	non-TCS FOOD	PA**
> 0.95	non-TCS FOOD	PA	PA

\* Time/temperature control for safety

\*\* PA means Product Assessment required

**Table B. Interaction of pH and a<sub>w</sub> for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged**

a <sub>w</sub> values	pH: < 4.2	pH: 4.2 -4.6	pH: > 4.6 -5.0	pH: > 5.0
< 0.88	non-TCS food*	Non-TCS food	non-TCS food	non-TCS food
0.88 – 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 – 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

\* Time/Temperature Control for Safety

\*\* PA means Product Assessment required

- B. “Time/temperature control for safety food” does not include the following foods (despite being included in this category, the license holder of a food establishment shall obtain a variance from the department prior to producing any foods that are claimed to be non-potentially hazardous foods under this section):
1. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *salmonellae*;
  2. A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
  3. A food that because of its pH or a<sub>w</sub>, or interaction of a<sub>w</sub> and pH values, is designated as a non-TCS food in Tables A or B of this definition; or
  4. A food that is designated as Product Assessment Required in Tables A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
    - a. Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
    - b. Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or
    - c. A combination of intrinsic and extrinsic factors.
  5. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with this definition even though the food may contain a pathogenic microorganism or chemical of physical contaminant at a level sufficient to cause illness or injury.
- C. “TCS foods” are not allowed to be provided or sold as part of lodging or tanning establishment operations. If such foods are provided or used in lodging or tanning establishments, a separate food establishment license is required.

1-69. “**Tableware**” means multiuse eating and drinking utensils.



- 1-70. **“Tanning device”** means equipment that emits electromagnetic radiation having wavelengths in the air between 200-400 nanometers and which is used for tanning of human skin and any equipment used with that equipment including food and drug administration approved eyewear, timers, and handrails. The term does not include a phototherapy device used by a physician.
- 1-71. **“Tanning facility”** means a place or business that provides individuals access to a tanning device.
- 1-72. **“Tanning session”** means the entire span of time during which a tanning device is emitting ultraviolet radiation.
- 1-73. **“Temporary crew housing”** means any parcel of land containing three or more housing structures intended for occupancy where housing is provided and is restricted to employees engaged in agricultural, commercial, industrial, transportation, and oil or gas or mineral extraction projects.
- 1-74. **“Tent”** means a collapsible shelter of canvas, nylon or other material stretched and sustained by poles and used for camping outdoors.
- 1-75. **“Toilet”** means a receptacle in which a human may urinate or defecate and which may or may not use water to convey urine or feces to a disposal, treatment or storage location.
- 1-76. **“Trailer Park”** means any parcel of land containing three or more lots intended for occupancy by travel trailers, and shall be designated one of the following:
- A. “Semi-developed trailer parks” are those trailer parks that have lots that do not have individual sewer, water and electrical connections and that provide only rudimentary facilities (such as privies or vault toilets) for the comfort and convenience of guests.
  - B. “Developed trailer parks” are those that are not “semi-developed trailer parks”.
- 1-77. **“Travel Trailer”** means a vehicular type unit that is primarily designed as temporary living quarters for recreational, camping or seasonal use; has its own motive power or is mounted on or towed by another vehicle; is regulated by the National Highway Traffic Safety Administration as a vehicle or vehicle equipment; does not require a special highway use permit for operation on the highways; and can be easily transported and set up on a daily basis by an individual. The term travel trailer includes the following:
- A. An independent travel trailer, which is a travel trailer containing sanitary facilities with devices for connecting to a waste disposal system.
  - B. A dependent travel trailer, which is a travel trailer not containing sanitary facilities with devices for connecting to a waste disposal system.
- 1-78. **“Travel trailer dump station”** means a facility provided for emptying of the waste holding tanks of travel trailers.
- 1-79. **“Ultraviolet radiation”** or **“UV”** means electromagnetic radiation with a wavelength in air of 200-400 nanometers.
- 1-80. **“Uniform”** means any article of clothing worn by employees in the performance of their duties and that is laundered or stored on premises at facilities.

- 1-81. **“Utensil”** means any implement used in the storage, preparation, transportation or service of food.
- 1-82. **“UV-A”** means ultraviolet radiation having a wavelength in air of 320-400 nanometers.
- 1-83. **“UV-B”** means ultraviolet radiation having a wavelength in air of 290-320 nanometers.
- 1-84. **“Variance”** means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Code, if, in the opinion of the Department a health hazard or nuisance will not result from the modification or waiver.

## **Section 2. Licensing.**

- 2-1. All facilities located within the boundaries of the First District Health Unit (FDHU) are required to have a license issued by the Department prior to operating for business.
- 2-2. License fees and late fees are set according to the FDHU fee schedule.
- 2-3. All license fees are non-refundable.
- 2-4. Licenses are non-transferable from one person or facility to another.
- 2-5. Licenses are valid for the current calendar year. License fees shall be renewed prior to January 1. Licenses not renewed prior to January 15 shall be charged a late fee as per the FDHU fee schedule.
- 2-6. The application for licensure shall be made at least 30 days before the intended date of opening or commencement of operations.
- 2-7. Qualifications and responsibilities of applicants. To qualify for a permit, an applicant shall:
  - A. Be an owner of the facility or an officer of the legal ownership;
  - B. Comply with the requirements of this code;
  - C. Agree to allow the required access to the facility and to provide required information; and
  - D. Pay the applicable license fees at the time the application is submitted.
- 2-8. Facility licenses are divided into classes based on the type of operation. Each license class is specific to a certain type of operation, and is only valid for that type of operation. Establishments that have different operations at the same location shall have the proper license class for each type of operation. See Appendix A for a list of and descriptions for facility license classes.
- 2-9. To apply for a license, a potential facility license holder shall complete a license application and submit it to the Department along with the required license fee. The application shall be provided by the Department and shall be completely filled out by the potential facility license holder.
- 2-10. The license application shall provide the following information to the Department, and any license holder shall update the information with the Department if any changes are made within 7 days of the date of the change of information:
  - A. The intended type of operation;

- B. Anticipated volume of traffic/customers;
- C. The operating name, mailing address, and physical address of the establishment;
- D. The name, mailing address, telephone number and signature of the person applying for the permit;
- E. Information specifying whether the facility is owned by an association, corporation, individual, partnership, or other legal entity;
- F. A statement specifying whether the facility is temporary or permanent;
- G. The name, title, address, and telephone number of the person that is directly responsible for the establishment;
- H. The names, titles and addresses of:
  - 1. The persons comprising the legal ownership as specified under Part C of this section including the owners and officers, and
  - 2. The local resident agent if one is required based on the type of legal ownership;
- I. A statement signed by the applicant that:
  - 1. Attests to the accuracy of the information provided in the application, and
  - 2. Affirms that the applicant will:
    - a. Comply with this code, and
    - b. Allow the Department access to the establishment as specified under 3-1 and to the records specified under Sections 11-6 and 14-12;
- J. Hours of operation; and
- K. Other information required by the Department.

2-11. A license applicant, or license holder, shall submit to the Department properly prepared plans and specifications for review and approval before:

- A. The construction of a facility;
- B. The conversion of an existing structure for use as a facility; or
- C. The remodeling of a facility or a change of type of operation if the Department determines that plans and specifications are necessary to ensure compliance with this Code.

2-12. The plans and specifications for a facility shall include, as required by the Department based on the type of operation, the following information to demonstrate conformance with Code provisions:

- A. Proposed layout, mechanical schematics, construction materials, and finish schedules;
- B. A complete scaled plan of the entire area to be included in the project;
- C. A legal description of the property and a description of the site location with regard to highways, streets, and landmarks;
- D. The location and width of roadways, automobile parking facilities, and walkways including surfacing material information;
- E. The location and details of any service buildings and accessory buildings or structures;
- F. The area and dimension of the site, along with a description of soil types present, depth to water table, and surface features including any and all permanent or seasonal water bodies, water ways and drainages;
- G. The name and address of the developer, architect, engineer, and/or designer;
- H. The number, location and dimension of units/housing units/lots and expected occupancy loads;
- I. The location and specifications of the water supply, sewer, and refuse disposal facilities including any approved soil testing results and details for wells or onsite treatment systems, pumping stations and service riser pipes;
- J. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capabilities, and installation specifications;

- K. Evidence that standard procedures that shall ensure compliance with the requirements of this Code are developed or being developed;
- L. Documentation from the state, county, township, city or other political subdivision having jurisdiction detailing that the zoning for the site is correct for occupation by humans and that all required local permits have been obtained, including:
  - 1. Water Board approval,
  - 2. County/Township/City approval, and
  - 3. Any special use permits or zoning changes;
- M. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capabilities, and installation specifications;
- N. Documentation from the entity having authority over surface and subsurface waters detailing that the proposed new facility or proposed changes to an existing facility will not have a negative impact on water quality of any surface waters of the state and will not impact any drinking water sources for any community, non-community or private water systems;
- O. A storm water plan;
- P. Number and type of tanning beds, when present;
- Q. A copy of any mandated child care center licenses;
- R. Copies of the licenses for any other type of operation licensed by the Department and located on premises;
- S. Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating a facility; and
- T. A completed plan review request form and the fee for the cost of plan review as per the FDHU fee schedule.

2-13. The Department must have given approval of any plans and specifications for a proposed facility before any construction of or work on the proposed facility may begin.

2-14. For facilities that are required to submit plans under Section 2-10, the Department shall issue a permit to the applicant after:

- A. A properly completed application is submitted;
- B. The required fees are submitted;
- C. The required plans, specifications and information are reviewed and approved; and
- D. A preoperational inspection as specified in Section 3-10 shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this code.

2-15. The Department may renew a license for an existing facility or may issue a permit to a new owner of an existing facility after:

- A. Either:
  - 1. A signed renewal form is remitted by the current license holder, or
  - 2. A properly completed application is submitted by the applicant and the application has been reviewed and approved by the Department,
- B. All fees are paid; and
- C. An inspection shows that the facility is in compliance with this code.

2-16. By purchasing a license, the owner/operator agrees to operate in full compliance with this code, and agrees to all terms and conditions contained herein. The license holder also agrees to take any necessary steps to bring a licensed facility into compliance.

- 2-17. If an application for a license is denied, the Department shall provide the applicant with a notice in writing that includes:
- A. The specific reasons and code citations for the license denial;
  - B. The actions, if any, that the applicant must take to qualify for a permit; and
  - C. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.
- 2-18. The Department may revoke or suspend any license for cause. Before the license will be revoked or suspended, the Department shall notify the licensee in writing of the reason for the revocation or suspension.
- 2-19. The licensee may appeal the revocation or suspension. The appeal shall be requested in writing, shall be signed by the licensee and shall be submitted to the Department within 10 days of the licensee being notified of the revocation. During the course of the appeal, the revocation or suspension shall remain in effect.
- 2-20. If a non-seasonal facility ceases operations for a period of 30 days or longer, then the license for that facility shall be considered suspended. The license holder shall contact the Department and obtain permission before resuming operations. If a non-seasonal facility ceases operations for a period of 60 days or longer, then the license for that facility shall be considered revoked. The license holder shall contact the Department to obtain a new facility license prior to resuming operations.
- 2-21. Any and all licenses issued by the Department to any type of facility shall be located on premises and displayed in a conspicuous location at all times while the facility is open for business.

### **Section 3. Inspection.**

- 3-1. After the Department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department to determine if the facility is in compliance with this code by allowing access to the facility, allowing inspection, and providing information and records specified in this code and to which the Department is entitled according to law, during the facility's hours of operation and at other reasonable times. The Department may suspend the facility license upon denial of inspection.
- 3-2. If a person denies access to the Department, the Department shall:
- A. Inform the person that:
    1. The license holder is required to allow access to the Department as specified in Section 3-1 of this code,
    2. Access is a condition of the acceptance and retention of a facility license to operate as specified under Section 4-501; and
  - B. Make a final request for access; and
  - C. If the person continues to deny access, the Department shall notify the person in charge that the license for the facility is immediately suspended.
- 3-3. If, after the Department: (1) presents credentials and provides notice as specified under Section 3-1, (2) explains the authority upon which access is requested, and (3) makes a final request for access as specified in Section 3-2, the person in charge continues to refuse access, the Department shall provide details of the denial of access on an inspection form.

- 3-4. The Department shall document on an inspection report form:
- A. Administrative information about the facility's identity, address, inspection date and type of inspection.
  - B. Specific factual observations or violative conditions or other deviations from this code that require correction by the license holder.
  - C. Any required correct by dates or time frames for correction of items determined to be out of compliance with the requirements of this code.
- 3-5. The inspection form shall be signed by the Department and by the license holder or their designate. At the conclusion of the inspection and according to law, the Department shall provide a copy of the inspection report form to the license holder or their designate.
- 3-6. If the license holder or their designate declines to sign the inspection form, the Department shall:
- A. Inform a person who declines to sign the inspection form that:
    1. Refusal to sign the inspection form does not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified, and
    2. A refusal to sign an inspection form is noted in the inspection form and is recorded in the Department's historical record for that facility.
  - B. Make a final request that the person in charge sign the inspection form.
- 3-7. The Department shall inspect each facility at a frequency as determined by the assigned Risk Level for the permit.
- A. Risk level one permits shall be inspected at least 1 time per two calendar years.
  - B. Risk level two permits shall be inspected at least 1 time per calendar year.
  - C. Risk level three and four permits shall be inspected at least 2 times per calendar year.
- 3-8. For those facilities that are seasonal in nature, it is the responsibility of the license holder to ensure that their facility is inspected as required. Facilities that are not inspected as required may have their license suspended or revoked.
- 3-9. Except for seasonal RV/travel trailer/tenting campgrounds that have not modified any part of their facility since the date of their last inspection, any seasonal lodging or tanning establishments shall contact the Department and schedule an inspection, and shall have been inspected and approved prior to beginning any lodging or tanning operations.
- 3-10. The Department shall conduct one or more preoperational inspections to verify that the facility is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under Section 2-12, and is in compliance with law and this code.
- 3-11. Any proposed changes to, remodeling of, or alteration of any part of any facility shall be presented to the Department prior to being done and are subject to the approval of the Department.
- 3-12. Any facility that fails to meet a certain minimum standard as defined by the Department shall have a mandatory reinspection. Reinspections shall be performed by the Department and a reinspection fee shall be charged to the license holder as per the FDHU fee schedule.

3-13. Time frame for Correction.

- A. Except as specified in Part B, the license holder shall correct items by a date or time agreed to or specified by the Department but no later than 90 calendar days after the inspection.
- B. The Department may approve a compliance schedule that extends beyond the time limits specified under Part A of this section if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.

3-14. After a time frame as specified under Section 3-12, or after receiving notification that the license holder has corrected a violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

**Section 4. General Provisions.** Unless otherwise specified elsewhere in this document, all facilities located in the First District Health Unit shall comply with all provisions in this section.

4-1. Physical Facilities.

4-101. All facilities shall be established and maintained on dry, well- drained ground. Any natural sinkholes, collected, or pooled water must be artificially drained and filled or located more than 200 feet from any lots, sleeping units, accessory buildings or service buildings. The location shall not be subject to periodic flooding.

4-102. Electrical system.

- A. For any electrical installations, certification from the electrician doing the work shall be provided to the Department stating that all installations were made in accordance with all pertinent state and local regulations.
- B. All portions of the electrical system including all light fixtures, wiring, outlets, outlet covers and switch plate covers shall be installed and maintained in accordance with law; and shall be maintained in a clean state and in good repair.

4-103. Utility lines – floors, walls and ceilings.

- A. Utility service lines and pipes may not be unnecessarily exposed.
- B. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls or ceiling.
- C. Exposed horizontal utility service lines and pipes may not be installed on the floor.
- D. In all new or extensively remodeled establishments, installation of exposed utility service lines and pipes on walls or ceilings is prohibited.

4-104. General lighting. In any buildings, accessory buildings or service buildings, permanently fixed, artificial light sources must be installed so as to provide:

- A. At least 500 foot-candles of light at any location where employee safety is a factor.
- B. At a distance of 30 inches from the floor:
  - 1. At least 200 foot-candles of light in utensil and equipment storage areas and in handwashing sink and toilet areas; and
  - 2. At least 100 foot-candles of light in all other areas.

- 4-105. General cleaning physical facilities.
- A. All parts of the physical facility of any buildings, service buildings or accessory buildings shall be maintained in a condition that is clean to the sight and touch and shall be cleaned as often as necessary to keep them clean.
  - B. All bath/shower facilities shall be disinfected between guests with an approved disinfectant.
- 4-106. Physical facilities – repairing. All parts of the physical facilities shall be maintained in good repair.
- 4-107. Maintaining premises – unnecessary items, litter, and traffic.
- A. The premises shall be kept free of items that are unnecessary to the operation or maintenance of the facility such as equipment that is nonfunctional or no longer used.
  - B. The premises shall be free of litter.
- 4-108. Aisles and working spaces. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width or space to permit employees to perform their duties readily. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.
- 4-109. Walls and Ceilings – studs, joists, and rafters. Studs, joists and rafters may not be exposed in areas subject to moisture.
- 4-110. Rooms exposed to water discharges.
- A. Floors shall be of smooth finish but not slippery materials and shall be impervious to moisture.
  - B. All junctions of the walls and the floor shall be coved.
  - C. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.
  - D. Floor drains shall be provided in all shower baths, shower rooms, toilet rooms or laundry rooms to remove waste water and facilitate cleaning.
- 4-111. Indoor areas – surface characteristics. Unless specified elsewhere in law or in this regulation, materials for indoor floor, wall and ceiling surfaces under conditions of normal use shall be:
- A. Durable and easily cleanable for areas where facility operations are conducted;
  - B. Closely woven and easily cleanable carpet for carpeted areas; and
  - C. Nonabsorbent for areas subject to moisture.
- 4-112. Outdoor areas – surface characteristics.
- A. The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.
  - B. Exterior surfaces of buildings, accessory buildings and service buildings shall be of weather-resistant materials and shall comply with law.
- 4-113. Cleanability – floors, walls and ceilings. Except as specified under Section 4-114 and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed and installed so they are durable and easily cleanable.



4-114. Floor carpeting – restrictions and installation.

- A. A floor covering such as carpeting or similar material may not be installed as a floor covering in warewashing areas, toilet room areas where hand washing lavatories, toilets and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing or spray cleaning methods.
- B. If carpeting is installed as a floor covering in areas other than those specified under Part A of this section, it shall be:
  - 1. Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
  - 2. Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

4-115. Walls and ceilings – attachments.

- A. Except as specified in Part B of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.
- B. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambience need not meet this requirement if they are kept clean.

4-116. Toilet facilities.

- A. Unless otherwise mandated by law, any facility that does not have public toilet facilities inside the boundaries of that facility shall have, at a minimum, at least one toilet facility for use by all employees whose duties include working on premises.
- B. Tanning facilities shall have at least one toilet facility that is accessible to both customers and to employees.
- C. A supply of toilet tissue shall be provided at each toilet at all times.
- D. Each toilet room shall be equipped with easily cleanable receptacles for waste materials.
- E. Toilet rooms used by women shall have at least 1 covered waste receptacle for sanitary napkins located at each toilet fixture. The receptacle shall be made of durable, non-absorbent and easily cleanable materials.
- F. Toilet rooms shall be equipped with locks so as to be securable from the inside.
- G. Toilet rooms shall be fully enclosed and shall be equipped with solid, self closing doors.
- H. Except during cleaning and maintenance operations, toilet room doors shall be kept closed.
- I. There shall be at least one handwashing sink located in or immediately adjacent to all toilet rooms that are equipped with running water.
- J. When allowed, open toilets/vault toilets/privies must be located not less than 100 feet from all kitchens, dining rooms, food storage spaces, or sleeping quarters.
- K. For rooms with multiple toilet fixtures, each toilet shall be in a separate compartment and shall be provided with a door with a latch for privacy and a holder or dispenser for toilet tissue.
- L. Toilet compartment walls or partitions shall be at least five feet high, and if separate from the floor, shall be separated by a space not greater than 12 inches.

- M. Toilet compartments shall be not less than 30 inches in width, and there shall not be less than 30 inches of clear space in front of each toilet.
- N. Toilet room floors shall be impervious to moisture and constructed in such a way so as to be easily cleanable. Toilet room walls shall be resistant to moisture and shall have a smooth finish that is easily cleanable.
- O. Nothing in this section may be interpreted as approval to deviate from the requirements of the Americans with Disabilities Act (ADA).

4-117. 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 at a ratio of at least one restroom for each ten guests, must be provided separately for each sex, and must be available on each floor. In determining the number of guests, a single bed unit counts as two people and a double bed unit counts as four people.

4-118. Bathing facilities – non-slip flooring. Bathing or shower facilities must have a non-slip floor surface, such as a manufactured non-slip bathtub or shower unit, a rubberized throw mat, or adhesive-backed non-slip strips.

4-119. Shower facilities.

- A. Showers shall be of a type with an individual head for each bather.
- B. Each shower head compartment shall be screened from view for privacy from all other shower head compartments and non-shower areas.
- C. All shower head compartments shall have a minimum finished interior floor area of at least 1024 square inches, and shall be capable of encompassing a 30 inch circle. Nothing in this section may be interpreted as approval to deviate from the requirements of the ADA.
- D. The dimensions required in Part C shall be as measured at a height equal to the top of the threshold and at a point tangent to its centerline.
- E. The minimum dimensions for a shower compartment shall be maintained to a point that is at least 70 inches above the shower drain opening, with no protrusions into the space other than the fixture valves, shower head and any safety grab bars or rails.
- F. Each shower compartment shall be designed to prevent or minimize the flow of water into the dressing area.
- G. Each shower compartment shall be paired with an individual dressing area, visually screened from view to provide privacy.
- H. The individual dressing area shall have a minimum floor area of three feet by three feet, and shall be equipped with a minimum of one clothing hook and stool or bench.
- I. The floors of shower compartments and dressing areas shall have an impervious, slip resistant surface.
- J. Wooden racks or duck boards are prohibited in shower compartments or dressing areas.
- K. Open showers provided exclusively for use by patrons wearing bathing suits are exempted from the requirements of this Section.

4-120. Handwashing sink facilities.

- A. Handwashing sinks shall be at least the number required by law and shall be installed according to law.

- B. There shall be at least one handwashing sink, and more as needed, located so as to be no farther than 15 feet of walking distance from any warewashing areas.
- C. A handwashing sink shall be maintained so that it is accessible at all times for employee use.
- D. A handwashing sink may not be used for purposes other than handwashing.

4-121. General ventilation.

- A. If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.
- B. Ventilation systems shall be installed and operated according to law.
- C. If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.
- D. Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.
- E. All rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.
- F. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
- G. Exhaust ventilation systems shall not be operated without all necessary filters in place. In systems designed to remove any particulate matter or grease from the air, filtration shall be adequate so that no air is vented through the system without having been passed through a filter.

4-122. Laundry facilities.

- A. Laundry facilities in a facility shall be used only for the washing and drying of items used in the operation of the establishment.
- B. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single service articles.
- C. Any laundry equipment and facilities shall be maintained clean and in a state of good repair.
- D. Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.
- E. Laundry facilities accessible to guests shall be separate from those used to launder cloths, linens, uniforms or other items used in the facility.

4-123. Clothes washers and dryers.

- A. If cloths, uniforms, bedding or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.
- B. If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no clean equipment, utensils and linens; and unwrapped single-service and single-use articles.

4-124. Dressing areas, lockers, and employee accommodations.

- A. Dressing rooms or dressing areas shall be designated for and used by employees if they routinely change their clothes in the establishment.
- B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

- C. Lockers and areas designated for employees to eat, drink, and use tobacco shall be located so that equipment, linens, and single-service and single-use articles are protected from contamination.
- D. Lockers or other suitable facilities may be located only in dressing rooms or areas containing only completely packaged single service articles.
- E. Dressing rooms or areas shall not be used for utensil washing or storage, or for single-service or single-use article storage.
- F. Employee's personal items shall only be stored in dressing rooms or areas, lockers or areas designated for employees to eat, drink and use tobacco.

4-125. Living areas. Except in those facilities licensed as bed and breakfast facilities, the following criteria shall be observed:

- A. A private home, a room used as personal living or sleeping quarters, or an area directly opening into a room used as personal living or sleeping quarters may not be used for conducting facility operations.
- B. No space, equipment or utensils that are used for or in a personal home shall be used in any manner for or in a facility.
- C. Living or sleeping quarters located on the premises of a facility, such as those provided for registration clerks or resident managers shall be separated from rooms and areas used for facility operations by complete partitioning and solid self-closing doors.

4-126. Outside openings.

- A. The outer openings of a facility shall be protected against the entry of insects and rodents by:
  - 1. Filling or closing holes and other gaps along floors, walls, and ceilings;
  - 2. Closed, tight-fitting windows; and
  - 3. Solid, self-closing, tight-fitting doors.
- B. Part A does not apply if a facility opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.
- C. Exterior doors used as exits need not be self-closing if they are:
  - 1. Solid and tight fitting;
  - 2. Designed for use only when an emergency exists, by the fire protection authority that has jurisdiction over the facility; and
  - 3. Limited-use so they are not used for entrance or exit from the building or purposes other than the designated emergency exit use.
- D. If the windows or doors of a facility, or of a larger structure within which a facility is located, can be kept open for ventilation or other purposes the window or door openings shall be protected against the entry of insects and rodents by:
  - 1. Screens that are at least 16 mesh to 1 inch;
  - 2. Properly designed and installed air curtains to control flying insects; or
  - 3. Other effective means approved by the Department.
- E. Part D of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting conditions.

4-127. Exterior walls and roof – protective barrier. Perimeter walls and roofs of a facility shall effectively protect the interior of the facility from the weather and the entry of insects, rodents, and other animals.

4-128. Refuse, recyclables and returnables storage areas – on premises requirements.

- A. If located within the facility, storage areas for refuse, recyclables, and returnables shall meet the requirements of Section 4-111 and shall be maintained in good repair.
- B. Outdoor refuse, recyclables, and returnables areas shall be constructed in accordance with law, and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.
- C. If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.
- D. Inside storage rooms, inside storage areas, outside storage areas, outside storage enclosures, and receptacles shall be of sufficient capacity to hold all refuse, recyclables, and returnables that accumulate.
- E. An area designated for refuse, recyclables, returnables, and, except as specified in Part F, a redeeming machine for recyclables or returnables shall be located so that it is separate from equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.
- F. A redeeming machine may be located in the consumer area of a lodging establishment if equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.
- G. The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.
- H. A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified in Section XXX, and clean.

4-129. General insect and rodent control.

- A. The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:
  - 1. Routinely inspecting incoming shipments of supplies;
  - 2. Routinely inspecting the premises for evidence of pests;
  - 3. Using methods, if pests are found, such as trapping devices or other means of pest control.
  - 4. Eliminating harborage conditions.
- B. The license holder or his designate shall employ effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises.
- C. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.
- D. Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

4-130. Noxious plant and animal control.

- A. The grounds, buildings, and structures of any facility shall be maintained free of harborage for insects, rodents, and other vermin. Extermination methods and other measures to control insects and rodents shall conform to all requirements of the Department.

- B. All areas shall be maintained free of accumulation of debris. The growth of brush, weeds, and grass must be controlled to prevent harborage or breeding places for insects of public health concern and vermin.
- C. Noxious weeds shall be controlled and eliminated.
- D. Storage areas shall be maintained so as to prevent rodent harborage. Lumber, firewood, pipe, and building materials shall be stored neatly at least one foot above the ground.

4-131. Mold. All components of a facility shall be kept free of visible mold growth. If conditions exist that could result in mold growth in areas of the facility that are not easily visible, those conditions shall be modified to a state that is not conducive to mold growth and any potential mold growth that may have occurred shall be identified and remediated.

4-132. Bolts or locks to be supplied on doors of sleeping rooms. The doors of all rooms used for sleeping purposes in any lodging establishment 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 lock or bolt 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 the outside, while the room is bolted or locked from within.

4-133. Sleeping units, service buildings – climate control. Sleeping units and service buildings shall have sufficient approved equipment to maintain a constant air temperature of at least 70 degrees F as measured in the coldest part of the sleeping unit or service building during periods when ambient outdoor temperatures are less than 70 degrees F.

4-134. Cottage food. Those foods that are cottage foods may not be sold, served or used at any class of facility.

## 4-2. Plumbing, Water, Wastewater, Refuse and Recyclables

### 4-201. General plumbing.

- A. A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.
- B. A water filter shall be made of safe materials.
- C. A plumbing system shall be designed, constructed, and installed according to law.
- D. For all plumbing installations, certification shall be provided to the Department by the plumber doing the work stating that all installations were made in accordance with all pertinent state and local regulations.

### 4-202. Prohibiting a cross connection.

- A. A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a non-potable water system or a water system of unknown quality.
- B. The piping of a non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.

### 4-203. Plumbing – maintenance and cleaning.

- A. All parts of the plumbing system shall be maintained in good repair.
- B. A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.

- C. Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.
- 4-204. Urinals. Only individual or wall-hung urinals shall be acceptable. Floor urinals shall be prohibited. Trough style urinals shall be prohibited.
- 4-205. Backflow prevention.
- A. An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 1 inch.
  - B. A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.
  - C. A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the lodging establishment, including on a hose bib if a hose is not attached and backflow prevention is required by law, by:
    - 1. Providing an air gap as specified in Part A; or
    - 2. Installing an approved backflow prevention device as specified in this section.
  - D. A backflow prevention device shall be located so that it may be serviced and maintained.
- 4-206. Scheduling inspection and service for a water system device. A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.
- 4-207. Conditioning device – design and location.
- A. A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.
  - B. A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.
- 4-208. Water tank – materials, system flushing and dedicated use.
- A. Materials that are used in the construction of a water tank and appurtenances shall be:
    - 1. Safe;
    - 2. Durable, corrosion-resistant, and nonabsorbent; and
    - 3. Finished to have a smooth, easily cleanable surface.
  - B. A water tank, pump and hoses shall be flushed and sanitized before being placed in service after construction, repair, or modification and after any emergency situation, such as a flood, that may introduce contaminants to the system.
  - C. A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.
- 4-209. Water tanks – design and construction.
- A. A water tank shall be:

1. Enclosed from the filling inlet to the discharge outlet; and
  2. Sloped to an outlet that allows complete drainage of the tank.
- B. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:
1. Flanged upward at least ½ inch; and
  2. Equipped with a port cover assembly that is:
    - a. Provided with a gasket and a device for securing the cover in place, and
    - b. Flanged to overlap the opening and sloped to drain.
- C. A fitting with “V” type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.
- D. If provided, a water tank vent shall terminate in a downward direction and shall be covered with:
1. 16 mesh to 1 inch screen or equivalent when the vent is in a protected area; or
  2. A protective filter when the vent is in an area that is not protected from windblown dirt and debris.
- E. A water tank and its inlet and outlet shall be sloped to drain.
- F. A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, dust, oil, or grease.
- G. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet and hose.
- H. If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in Part G.
- I. A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

4-210. Hose – construction and identification. A hose used for conveying drinking water shall be:

- A. Safe;
- B. Durable, corrosion-resistant, and nonabsorbent;
- C. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- D. Finished with a smooth interior surface; and
- E. Clearly and durably identified as to its use if it is not permanently attached.
- F. Used for no other purpose.

4-211. Air compressor – filter. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

4-212. Wells – hand pumps.

- A. A well equipped with a hand pump shall be protected by a concrete apron surrounding the pump suction pipe to divert waste water away from the well.
- B. Hand pumps, when provided, shall be so designed and installed that all openings into the interior of the pump are protected so as to exclude contamination.
- C. The top of the casing shall extend at least one inch above the face of the flange.
- D. Each hand pump shall be bolted to a mounting flange securely fastened to the well casing.
- E. Open pitcher pumps shall not be used.



4-213. Drains – direct connections.

- A. Except as specified in this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which portable equipment, or utensils are placed.
- B. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.
- C. If allowed by law, a warewashing sink may have a direct connection.

4-214. Water pressure. Hot and cold water under pressure shall be provided to all fixtures and equipment, that are designed for or that require the use of water.

4-215. Water outlets. Approved measures shall be taken to prevent accumulation of standing water or the creation of muddy conditions at each water connection or outlet that is located outdoors.

4-216. Handwashing sink fixtures.

- A. A handwashing sink shall be equipped to provide hot water at a temperature of at least 100 degrees F but not more than 120 degrees F.
- B. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.
- C. A steam mixing valve may not be used at a handwashing sink.
- D. Unless otherwise mandated by law, the faucet shall be plumbed so that the flow of hot water is controlled by the left side of the faucet when the user is facing the faucet.
- E. Hot and cold water markings on faucets shall correspond correctly with hot and cold water flow.
- F. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

4-217. Bathing facilities – hot water. All bath and shower fixtures shall be provided with hot water that is at least 100 degrees F, but that is not more than 120 degrees F.

4-218. General water supplies. Drinking water shall be obtained from an approved source, and shall meet the following requirements:

- A. Be from a water system that is constructed, maintained, and operated according to law.
- B. Water from a water system shall meet the criteria for drinking water found in 40 CFR 141 – National Primary Drinking Water Regulations and North Dakota Department of Health (NDDOH) Drinking Water Quality Standards.
- C. Be sampled and tested at least monthly if from any source that is not regulated by the NDDOH Division of Municipal Facilities.
- D. The water source and system shall be of sufficient capacity to meet the peak water demands of the facility.
- E. Have hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the facility.

- 4-219. Water tests – reporting.
- A. The most recent sample report for the water system shall be retained on file and posted in public view on premises in the facility and the report shall be maintained as specified by state water quality regulations.
  - B. If a lab other than the First District Health Unit lab is used, a copy of the results shall be submitted to the Department within seven days of receipt of the results by the facility.
- 4-220. Water system – distribution, delivery, and retention. Water shall be received from the source through the use of:
- A. An approved public water main; or
  - B. One or more of the following that shall be constructed, maintained, and operated according to law:
    1. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,
    2. Water transport vehicles, or
    3. Water containers.
- 4-221. Alternative water supply. Water meeting the requirements specified under Sections 4-218 and 4-220 shall be made available for a facility without a permanent water supply, and for a facility with a temporary interruption of its water supply through:
- A. A supply of containers of commercially bottled drinking water;
  - B. One or more closed portable water containers;
  - C. An enclosed vehicular water tank;
  - D. An on-premises water storage tank; or
  - E. Piping, tubing, or hoses connected to an adjacent approved source.
- 4-222. Non-potable water.
- A. A non-potable water supply shall be used only if its use is approved.
  - B. Non-potable water shall be used only for non-culinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.
- 4-223. System flushing and disinfection. A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after any occurrence or emergency situation, such as a flood, that may introduce contaminants to the system. The water from the system shall be tested by a certified lab to ensure compliance with 40 CFR 141 – National Primary Drinking Water Regulations and NDDOH Drinking Water Quality Standards before the system is put into use.
- 4-224. General sewage.
- A. Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including the use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.
  - B. Non-water-carried sewage disposal facilities are prohibited, except as permitted by the Department in remote areas or because of special situations.
  - C. If a facility uses an onsite treatment system for sewage disposal and treatment, then that system shall have been designed by the Department or shall receive approval by the Department prior to being used.

- D. No dishwasher, rinse water or any other substance that may become foul or offensive or that is putrescible shall be thrown upon the ground or poured into the storm sewer.
- E. Sewage and other liquid wastes shall be removed from a facility by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.
- F. Facilities shall be kept free from the effluvia arising from any sewerage, drain, privy, or other source within the control of the proprietor.

4-225. Travel trailer dump stations. The following shall apply to any travel trailer dump station:

- A. Developed travel trailer parks shall be provided with at least one travel trailer dump station per every 100 lots or parking spots (not provided with individual sewer connections) or fraction thereof.
- B. The location of a travel trailer dump station shall be level and shall be easily accessible from the service road and shall provide easy pull through entry and exit for travel trailers.
- C. The travel trailer dump station shall be located so that there is no chance of infiltration by flood waters or storm water or any other type of runoff into the tank or seepage out of the storage tank.
- D. A travel trailer dump station shall have a concrete slab with a centered drainage system inlet located so as to be on the road (left) side of the travel trailer.
- E. The slab shall not be less than 3 feet by 3 feet and shall not be less than 3.5 inches thick and shall be properly reinforced. The surface of the concrete shall be of a smooth finish and sloped from each side to the drain.
- F. The drain shall consist of a 4-inch self-closing foot operated hatch of approved material with cover milled to fit tight. The hatch body shall be set in the concrete of the slab with the lip of the opening flush with the surface. The hatch shall be connected to an approved drainage system inlet.
- G. A clear and unobstructed space of at least five feet in every direction shall be maintained around the drain opening.
- H. The travel trailer dump station shall be provided with a fixture and all necessary appurtenances for providing water under pressure sufficient for rinsing out of the holding tanks of any travel trailers and for washing any spilled wastes into the opening into the flush mounted opening.
- I. The fixture specified in Part H shall consist of a properly supported riser terminating at least 24 inches above the ground surface with a  $\frac{3}{4}$  inch valved outlet to which is screwed a flexible hose.
- J. The fixture specified in Part H shall be protected from backflow by a vacuum breaker located downstream from the last shutoff valve.
- K. The fixture specified in Part H shall be posted with a sign of durable material, not less than 24 inches by 24 inches in size and inscribed thereon in clearly legible letters on a contrasting background shall be the following statement:  
 "Danger – Not to be used for drinking or domestic purposes"
- L. Travel trailer dump stations shall be screened from other activities by visual barriers such as fences, wall, or natural growth. Travel trailer dump stations shall be at least 50 feet from any lots.
- M. Travel trailer dump stations shall be kept clean and in good repair.

4-226. Utility sinks.

- A. All facility buildings or service buildings equipped with running water shall be equipped with, or have reasonable access to, at least one utility sink or curbed

cleaning facility with a floor drain for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes.

- B. The use of toilets, urinals, utensil washing or equipment washing sinks for disposal of mop water or similar liquid wastes is prohibited.

4-227. Refuse, recyclables, and returnables – receptacles.

- A. Except as specified in Part B, receptacles and waste handling units for refuse, recyclables, and returnables shall be durable, cleanable, insect- and rodent-resistant, leakproof and nonabsorbent and shall be maintained in good repair.
- B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the lodging establishment, or within closed outside receptacles.
- C. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing any food residue and used outside the facility shall be designed and constructed to have tight fitting lids, doors, or covers.
- D. Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.
- E. Suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables and returnables.
- F. Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.
- G. Except as specified in Part H, refuse receptacles not meeting the requirements specified under Part A such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.
- H. Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.
- I. Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:
  - 1. Inside the lodging or tanning establishment if the receptacles and units:
    - a. Contain any type of food residue and are not in continuous use; or
    - b. After they are filled; and
  - 2. With tight fitting lids or doors if kept outside the lodging or tanning establishment.
- J. Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.
- K. Receptacles and waste handling units for refuse, recyclables and returnables shall be thoroughly cleaned in a way that does not contaminate equipment, utensils, linens, or single-service or single-use articles and wastewater shall be disposed of as specified under Section 4-224.
- L. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.
- M. A receptacle shall be provided in each area of the facility or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

4-228. Refuse, recyclables, and returnables – removal.

- A. Refuse shall be removed from the premises at least once per 7 day period and at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects or rodents.
- B. Recyclables and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects or rodents.
- C. Refuse, recyclables, and returnables shall be removed from the premises by way of:
  - 1. Portable receptacles that are constructed and maintained according to law; or
  - 2. A transport vehicle that is constructed, maintained, and operated according to law.

4-3. Equipment, Utensils, Linens.

4-301. Existing equipment. Equipment that was installed in a facility prior to January 1, 2019, and that does not fully meet all of the design and construction requirements of this chapter may be deemed acceptable by the Department for use in that facility if the license holder can demonstrate that it is in good repair, that it is capable of being maintained in a sanitary condition, and that it does not constitute a threat to public health or safety. All such equipment must be replaced with equipment that is in full compliance of this chapter by January 1, 2020. Replacement equipment and new equipment acquired after the effective date of this Code, must meet all the requirements of this Code.

4-302. Equipment, utensils, linens and single-service and single-use articles – storage.

- A. Except as specified in this section, food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles shall be stored:
  - 1. In a clean, dry location;
  - 2. Where they are not exposed to splash, dust, or other contamination; and
  - 3. At least 6 inches above the floor.
- B. Clean tableware and utensils shall be stored as specified in this section, and shall be stored:
  - 1. In a self-draining position that allows air drying, or
  - 2. Dry; and
  - 3. Covered or inverted.
- C. Single-service and single-use articles shall be stored as specified in this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.
- D. Items that are kept in closed packages may be stored less than 6 inches above the floor on dollies, pallets, racks, and skids.
- E. Except as specified in Part F of this section, food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles may not be stored:
  - 1. In locker rooms;
  - 2. In toilet rooms;
  - 3. In garbage rooms;
  - 4. In mechanical rooms;
  - 5. Under sewer lines that are not shielded to intercept potential drips;

6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

4-303. Equipment, storage cabinets – contamination prevention.

- A. Except as specified below, equipment or a cabinet used for the storage of food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles may not be located:
  1. In locker rooms;
  2. In toilet rooms;
  3. In garbage rooms;
  4. In mechanical rooms;
  5. Under sewer lines that are not shielded to intercept potential drips;
  6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  7. Under open stairwells; or
  8. Under other sources of contamination.
- B. A storage cabinet used for cloths, linens, bedding, or single-service or single-use articles may be stored in a locker room.

4-304. Tableware and utensil food-contact surfaces and microwave and refrigerator interior surfaces – cleaning frequency.

- A. Utensil and tableware food-contact surfaces, microwave oven cavities and the interior surfaces of refrigerators shall be clean to sight and touch.
- B. Utensil and tableware food-contact surfaces, microwave oven cavities and the interior surfaces of refrigerators shall be cleaned in between occupancy by different guests.
- C. Utensil and tableware food-contact surfaces, microwave oven cavities and the interior surfaces of refrigerators shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline or abrasive cleaners; hot water brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
- D. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

4-305. Tableware and utensils – use requirement. Facilities that do not have approved facilities for cleaning and sanitizing tableware and utensils shall only use single-use tableware and utensils.

4-306. Wet cleaning.

- A. Utensil and tableware food-contact surfaces shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
- B. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:
  1. Exposes the items to the unobstructed spray from all cycles; and

2. Allows the items to drain.

4-307. Rinsing procedures. Washed utensils and tableware shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water by using one of the following procedures:

- A. Use of a distinct, separate water rinse after washing and before sanitizing if using a three-compartment sink,
- B. If using a warewashing machine that does not recycle the sanitizing solution as specified under Part C below, by use of non-distinct water rinse that is:
  1. Integrated in the application of the sanitizing solution, and
  2. Wasted immediately after each application; or
- C. If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a non-distinct water rinse that is integrated in the application of the sanitizing solution.

4-308. Sanitization – tableware and utensil food-contact surfaces.

- A. Tableware and utensil food-contact surfaces shall be sanitized.
- B. Tableware and utensil food-contact surfaces shall be sanitized before use, after being washed and rinsed.
- C. After being washed and rinsed, tableware and utensil food-contact surfaces shall be sanitized in:
  1. Hot water mechanical operations by being cycled through equipment and achieving a tableware or utensil surface temperature of 160 degrees F as measured by an irreversible registering temperature indicator; or
  2. Chemical manual or mechanical operations using a solution as specified under Section 4-407. Contact times shall be consistent with those on EPA-registered label use instructions by providing:
    - a. Except as specified under b below, a contact time of at least 10 seconds for a chlorine solution as specified in Section 4-407,
    - b. A contact time of at least 7 seconds for a chlorine solution of 50 ppm that has a pH of 10 or less and a temperature of at least 100 degrees F or a pH of 8 or less and a temperature of at least 75 degrees F,
    - c. A contact time of at least 30 seconds for other chemical sanitizing solutions, or
    - d. A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in Section 1.

4-309. Testing devices.

- A. A test kit or other device that accurately measures the concentration in ppm or mg/l of sanitizing or disinfecting solutions shall be obtained by the license holder and kept available for use.
- B. Concentration of the sanitizing and disinfecting solutions shall be accurately determined by using a test kit or other device.
- C. Any testing equipment shall be of at least a minimum accuracy that is approved by the Department.
- D. Testing strips, reagents or other single-use testing materials shall be replaced every 6 months, or more often as recommended by the manufacturer.
- E. All testing equipment and related materials shall be kept in a clean location and shall be protected from moisture and from temperature extremes.

- F. In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.
  - G. In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature.
  - H. Water temperature measuring devices shall be maintained in good repair and shall be accurate within the intended range of use.
- 4-310. Rinsing equipment and utensils after cleaning and sanitizing. After being cleaned and sanitized, tableware and utensils shall not be rinsed before air drying or use unless:
- A. The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated in accordance with the manufacturer's instructions and with all applicable sections of this Code; and
  - B. The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.
- 4-311. Drying. After cleaning and sanitizing, tableware and utensils:
- A. Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions) before contact with food; and
  - B. May not be cloth dried except that tableware and utensils that have been air-dried may be polished with cloths that are maintained clean and dry.
- 4-312. Warewashing equipment – clean solutions. The wash, rinse, and sanitize solutions shall be maintained clean and shall be free of food debris and visible soil.
- 4-313. Warewashing equipment – cleaning agents. When used for washing tableware and utensils, the wash compartment of a sink or mechanical warewasher shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.
- 4-314. Manual warewashing – sink compartment requirements.
- A. Except as specified in this section, a sink with at least three-compartments shall be provided for manually washing, rinsing and sanitizing tableware and utensils.
  - B. Sink compartments shall be large enough to accommodate immersion of the largest tableware and utensils.
  - C. Warewashing sinks shall be self-draining.
  - D. Once the three-compartment sink has been cleaned and then sanitized, manual washing, rinsing, and sanitizing must be conducted in the following sequence:
    1. Tableware and utensils must be thoroughly washed in the first compartment with a hot detergent solution that is kept clean and maintained at not less than 110 degrees F.
    2. Tableware and utensils must be rinsed free of detergent and abrasives with clean water in the second compartment.
    3. Tableware and utensils must be sanitized in the third compartment using an approved sanitizing method.



- 4. Tableware and utensils shall be adequately drained and air-dried.
  - E. If a warewashing sink is used for any purpose other than warewashing, the sink shall be cleaned and sanitized before being used for warewashing.
- 4-315. Warewashing machine – data plate operating specifications. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine’s design and operation specifications including the:
- A. Temperatures required for washing, rinsing and sanitizing;
  - B. Pressure required for the fresh water sanitizing rinse, unless the machine is designed to use only a pumped sanitizing rinse; and
  - C. Conveyor speed for conveyor machines or cycle time for stationary rack machines.
- 4-316. Mechanical warewashing machines – Manufacturers’ operating instructions.
- A. A warewashing machine and its auxiliary components shall be operated in accordance with the machine’s data plate and other manufacturer’s instructions.
  - B. A warewashing machine’s conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with the manufacturer’s specifications.
- 4-317. Warewashing machines – automatic dispensing of detergents and sanitizers. A warewashing machine shall be equipped to automatically dispense detergents and sanitizers.
- 4-318. Food-contact surfaces. Multiuse food-contact surfaces shall be:
- A. Smooth;
  - B. Free of breaks, open seams, cracks, chips, inclusions, pits and similar imperfections;
  - C. Free of sharp internal angles, corners and crevices;
  - D. Finished to have smooth welds and joints.
- 4-319. General tableware and utensils – characteristics.
- A. Materials that are used in the construction of tableware and utensils may not allow the migration of deleterious substances or impart colors, odors or tastes to food and under normal use conditions shall be:
    - 1. Safe;
    - 2. Durable, corrosion resistant and non-absorbent;
    - 3. Sufficient in weight and thickness to withstand repeated cleaning and warewashing;
    - 4. Finished to have a smooth, easily cleanable surface; and
    - 5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.
  - B. Tableware and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.
  - C. Tableware and utensils shall be maintained in a state of repair and condition that maintains the requirements of Part A and Part B or shall be discarded and removed from the premises.

4-320. Bedding, cloths and linens.

- A. Facilities that provide cloths, bedding, or linens must furnish each guest with clean cloths and with clean bedding and linens for the bed, bunk, or cot to be occupied by a guest.
- B. Sheets shall be of sufficient width and length to cover the mattress completely.
- C. All cloths and linens used by a guest must be removed from the bed, bunk, cot, or room and mechanically washed and dried prior to being furnished to or used by another guest.
- D. All cloths, bedding, and linens shall be kept and stored clean, kept in good repair and stored on surfaces that are smooth and easily cleanable.
- E. Cloths, bedding and linens provided to guests shall be clean to sight and touch.
- F. Bedding that is not clean to sight and touch shall be removed from the guest room and cleaned and dried prior to being provided to another guest.

4-321. Linen, cloth and clothing/uniform storage.

- A. Laundered linens, laundered cloths, laundered uniforms, and clean bedding shall be stored in a clean place at least 6 inches off of the floor, and shall be protected from contamination until used.
- B. Soiled linens, cloths, bedding, uniforms and any other clothing being stored prior to laundering shall be stored in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles
- C. Cloths, linens, and any bedding that can be mechanically washed and dried shall be mechanically washed and dried.

4-322. Single-service and single-use articles – use restrictions and materials.

- A. Single service articles, single-use items, or any other items designed for a single-use such as the packaging from commercially packaged food, shall be used only once and shall not be reused.
- B. Materials that are used to make single-service and single-use articles may not allow the migration of deleterious substances or impart any colors, odors, or tastes to food.
- C. Materials that are used to make single-service and single-use articles shall be clean, sanitary, and safe.

4-323. Single-service and single-use articles – storage and handling.

- A. Single service and single-use articles shall be stored at least six inches above the floor in the original protective package, in closed cartons, or containers which protect them from contamination until used and shall not be placed under exposed sewer lines or waterlines, except for automatic fire protection sprinkler heads that may be required by law.
- B. Single service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed one's hands immediately prior to sorting or wrapping the utensils and who is wearing single-use gloves.

4-324. Dispensing equipment – prevention of cross contamination. In equipment that dispenses or vends ice in unpackaged form:

- A. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles,

or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food.

- B. The delivery tube, chute, and orifice shall be protected from manual contact such as being recessed and shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
  - 1. Located in an outside area that does not afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
  - 2. Available for self-service during hours when it is not under the full-time supervision of an employee.

4-325. Compressed gas cylinders. Any compressed gas cylinders kept on premises shall be equipped with a protective collar around the valve, or shall be securely attached to a stable surface to prevent the possibility of falling over.

4-326. Microwave ovens. Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.

4-327. Cleaning maintenance tools – preventing contamination. Hand washing sinks and warewashing sinks may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

4-328. Storage of cleaning maintenance tools. Cleaning maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

- A. Stored so they do not contaminate food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles; and
- B. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.
- C. After use, mops shall be placed in a head-down position that allows them to air-dry without soiling walls, equipment, or supplies.

4-329. Playground equipment. All playground equipment located on premises shall be manufactured, installed and maintained so as to be in complete compliance with the Consumer Product Safety Commission (CPSC) Public Playground Safety Handbook.

- A. Those facilities with playground equipment that were in operation prior to the effective date of this regulation shall have a two year grace period to bring all existing playground equipment into compliance with this standard.
  - 1. All such facilities shall have an audit of their playground equipment done by a Certified Playground Safety Inspector, and shall provide a copy of this audit to the Department. All deficiencies noted on the audit shall be corrected prior to the equipment being placed into service on the date that is two years and one day after the effective date of this regulation.
  - 2. Violations that are deemed to be Priority One hazards by the Department shall be corrected within the timeframes specified by the Department during the grace period.
- B. Any installation of new playground equipment at new or existing facilities that occurs after the date of adoption of this regulation shall be done in compliance with the CPSC Public Playground Safety Handbook.

- 4-330. Swimming pools and spas. All swimming pools and spas located on premises shall hold a current FDHU Swimming Pool establishment license. All swimming pools and spas located on premises that hold a license issued to the same license holder that holds the license for the facility shall be operated in complete compliance with the FDHU Swimming Pool and Spa Rules and Regulations. If necessary to protect public health and safety, the Department may suspend or revoke any and all licenses issued to any classification of facility located on premises.
- 4-331. Food operations. Any food establishment located on premises shall hold a current FDHU Food Establishment license. Any food establishment located on premises that holds a license issued to the same license holder that holds the license for the facility shall be operated in complete compliance with the FDHU Requirements for Food and Beverage Establishments. If necessary to protect public health and safety, the Department may suspend or revoke any and all licenses issued to any classification of facility located on premises.
- 4-332. Ice. If provided to guests, ice must be manufactured, stored, transported and handled in a manner approved by the Department. Ice may only be made with potable water meeting all requirements for water found in Section 4-2. Processes and controls must be designed and monitored to ensure that neither the product nor the product area is subject to contamination.
- 4-333. Ice dispensing utensils.
- A. Ice must be dispensed with scoops, tongs, or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment.
  - B. Ice dispensing utensils must be stored on a clean, dry surface or in the ice with the dispensing handle extending out of the ice.
  - C. Any utensil used for dispensing ice must be dedicated to that purpose alone, and must have a handle, with the handle being the only part of the utensil that comes into contact with the hands of the person using the utensil.
  - D. Food contact surfaces of ice dispensing utensils shall be clean to sight and touch and shall be cleaned at least once every 24 hours that they are in use.
- 4-334. Ice machines. Ice making equipment located in areas accessible to the public may not be bin-type machines, and must make and store the ice in such a way so as the only ice that may be contacted by any person is ice that has been dispensed from the machine to that person and so that ice that has been potentially contacted by any person cannot be dispensed to or used by another person.
- 4-335. Handwashing sink supplies.
- A. A supply of hand-cleansing soap or detergent shall be available at each handwashing sink.
  - B. Each handwashing sink or group of adjacent handwashing sinks shall be provided with:
    - 1. Individual, disposable towels; or
    - 2. A continuous towel system that supplies the user with a clean towel; or
    - 3. A heated-air hand drying device; or
    - 4. A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.
  - C. The use of common towels at handwashing sinks is prohibited.

- D. Approved refuse receptacles shall be conveniently located near each handwashing sink.
- E. All soap dispensers, hand drying devices, and all related appurtenances and items shall be kept clean to sight and touch, and in good repair.

4-336. Bathing facility supplies.

- A. Each bath/shower facility shall be equipped with soap. Soap shall be either gel-type soap from an approved dispenser or a bar type soap, so long as each guest is issued an individual bar.
- B. Separate bath towels and cloths shall be issued to each individual, with all bath towels and cloths pulled from rooms and washed in between guests.

4-4. Chemicals and Poisonous or Toxic Materials

4-401. Presence and use – restriction.

- A. Only those poisonous or toxic materials that are required for the operation and maintenance of a facility, such as for the cleaning and sanitizing of tableware and utensils and the control of insects and rodents, shall be allowed in a facility.
- B. Part A of this section does not apply to packaged poisonous or toxic materials that are for retail sale.
- C. For all hazardous chemicals, including household consumer products used in a way that is greater than the duration and frequency of use that a household consumer would typically experience, there shall be present a current and correct safety data sheet (SDS). All SDS shall be alphabetized in a binder located in the vicinity of the chemical storage area. This requirement shall not be interpreted as an alternative to or replacement for any other hazard communication requirements imposed by any other regulatory authority.

4-402. Containers, original and working – labeling.

- A. Original containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.
- B. Working containers used for storing poisonous or toxic materials such as cleaners and disinfectants taken from bulk supplies shall be clearly and individually identified with the common name of the material.

4-403. Storage of materials.

- A. Poisonous or toxic materials shall be considered to consist of the following four categories:
  - 1. Pesticides.
  - 2. Detergents, sanitizers, and related cleaning or drying agents.
  - 3. Substances necessary for the operation and maintenance of the establishment such as nonfood-grade lubricants and personal care items that may be deleterious to health.
  - 4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.
- B. Each of the four categories set forth in Part A must be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose.

- C. To preclude contamination, poisonous or toxic materials shall be separated by spacing or partitioning from, and shall not be stored above food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles. This requirement does not prohibit the convenient location of detergents or sanitizers at utensil or dish washing stations.
- D. Poisonous or toxic materials shall be stored and displayed for retail sale so that they cannot contaminate food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles by:
  - 1. Separating the poisonous or toxic materials by spacing or partitioning; and
  - 2. Locating the poisonous or toxic materials in an area that is not above food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles.

4-404. Use of materials.

- A. Any chemicals used in any capacity in a facility shall only be used in full accordance with the law, this Code, and the manufacturer's label.
- B. Bactericides, cleaning compounds, or other compounds intended for use on food contact surfaces shall not be used in a way that leaves any toxic residue on such surfaces or in any way that constitutes a hazard to employees or other persons.
- C. Poisonous or toxic materials shall not be used in a way that contaminates food, tableware, single service or single use items, or utensils, or in a way that constitutes a hazard to employees or other persons.
- D. Poisonous or toxic materials shall be used according to the conditions of certification, if certification is required, for the use of pest control materials.
- E. Poisonous or toxic materials shall be applied or used so that contamination including toxic residues due to drip, drain, fog, splash, or spray on food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:
  - 1. Removing the items,
  - 2. Covering the items with impermeable covers, or
  - 3. Taking other appropriate preventive actions, and
  - 4. Cleaning and sanitizing equipment and utensils after the application.

4-405. Medicines – restriction and storage.

- A. Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees, those that are in the possession of guests or tenants and for their personal use in a lodging or tanning facility, and those medications for use of the children at a child care center shall be allowed in a facility.
- B. Medicines specified in Part A shall be labeled as specified under Section 4-402 and located to prevent the contamination of food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles.

4-406. First aid supplies. First aid supplies shall be labeled as per Section 4-402, and shall be stored in a way that prevents them from contaminating food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and

single-service and single-use articles. First aid supplies shall be used by or discarded and replaced according to any manufacturer’s labeling that indicates use-by dating.

4-407. Chemical sanitization for manual and mechanical warewashing equipment – temperature, pH, concentration, and hardness. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation shall meet the requirements listed in 40 CFR 180.940 (Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)) and 40 CFR 180.2020 (Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations). Sanitizing solutions shall be used in accordance with the Environmental Protection Agency (EPA) registered label use instructions, and shall be used as follows:

- A. Chlorine solutions:
  1. Shall have a concentration that is at least 50 ppm and that is not more than 200 ppm; and
  2. Shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Concentration Range: ppm	Minimum temperature in degrees F:	
	8 < pH < 10	pH < 8
50-99	100	75
100 or higher	55	55

- B. Iodine solutions:
  1. Shall have a minimum temperature of 68 degrees F; and
  2. Shall have a pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and
  3. Shall have a concentration between 12.5 and 25 ppm of iodine.
- C. Quaternary ammonium compounds:
  1. Shall have a minimum temperature of 75 degrees F; and
  2. Shall have a concentration as specified in 21 CFR 178.1010 sanitizing solutions and as indicated by the manufacturer’s use directions included in the labeling; and
  3. Shall be used only in water with 500 ppm hardness or less or in water having a hardness no greater than specified by the EPA registered label use instructions.
- D. If another solution of a chemical specified in Parts A through C is used, the license holder or their designate shall demonstrate to the Department that the solution achieves sanitization and that the use of the solution shall be approved.
- E. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA registered label use instructions.

4-408. Drying agents – criteria. Drying agents used in conjunction with sanitization shall:

- A. Contain only components that are listed as one of the following:
  1. Generally Recognized As Safe (GRAS) for use in food as specified in 21 CFR 182 – Substances Generally Recognized as Safe, or 21 CFR 184 Direct Food Substances Affirmed as Generally Recognized as Safe,
  2. GRAS for the intended use as specified in 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe,

3. GRAS for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS),
  4. Subject of an effective Food-Contact Notification as described in the Federal Food Drug and Cosmetic Act Section 409 (h);
  5. Approved for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act 201 (s) (4);
  6. Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174-178; or
  7. Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; and
- B. When sanitization is with chemicals, the approval required under Part A(5) or (7) of this section or the regulation as an indirect food additive required under Part 6 of this section, shall be specifically for use with chemical sanitizing solutions.

4-409. Rodent bait stations. Rodent bait shall be contained in a covered, tamper-resistant bait station.

4-410. Personal care items – storage. Except as specified in Sections 4-405 and 4-406, employees shall store their personal care items in facilities as specified in Section 4-124.

#### 4-5. Policies and Procedures

4-501. Responsibilities of the license holder. Upon acceptance of the license issuance by the Department, the license holder in order to retain the license shall:

- A. Post the permit in a location in the facility that is conspicuous to customers;
- B. Comply with the provisions of this code including the conditions of a granted variance and approved plans;
- C. Immediately discontinue operations and notify the Department if an imminent health hazard may exist as specified under Section 4-502;
- D. Allow representatives of the Department access to the facility as specified under Section 3-1;
- E. Replace existing facilities and equipment with facilities and equipment that comply with this code if:
  1. The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria, upon which the facilities and equipment were accepted,
  2. The Department directs the replacement of the facilities and equipment because of a change of ownership, or
  3. The facilities and equipment are replaced in the normal course of operation;
- F. Comply with the directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the permit holder's facility or in response to community emergencies;
- G. Accept notices issued and served by the Department according to law; and



- H. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this code or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.
- I. Notify customers that a copy of the most recent facility inspection report is available upon request by posting a sign or placard in a location in the facility that is conspicuous to customers or another method acceptable to the Department.

4-502. Ceasing operations and reporting- emergency occurrences.

- A. Except as specified in this section, a license holder shall immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup or sewer failure, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.
- B. A license holder need not discontinue operations in an area of a facility that is unaffected by the imminent health hazard.
- C. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to continuing operations in the event of an extended interruption of electrical or water service if:
  - 1. A written emergency operating plan has been approved;
  - 2. Immediate corrective action is taken to eliminate, prevent, or control any safety risks and imminent health hazards associated with the electrical or water service interruption; and
  - 3. The Department is informed upon implementation of the written emergency operating plan.
- D. If operations are discontinued under this section or otherwise according to law, the license holder shall request and have obtained permission from the Department before resuming operations and may not resume operations until such permission is obtained.

4-503. Clean up of vomiting and diarrheal events. A facility shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the facility. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, customers, and surfaces to vomitus or fecal matter.

4-504. Variances. The Department may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the Department there is a scientific or documented reason that modifying or waiving the requirements of this Code will not result in a health hazard or risk to public safety.

- A. A variance request shall be made in writing, and shall be signed and dated by the license holder requesting the variance. The variance request shall be addressed to the Director of Environmental Health and shall be submitted to the Department. The variance request shall include the following information:
  - 1. A statement of the proposed variance detailing specifically what part of the Code the variance will be from, including all relevant Code section numbers;

2. A statement detailing the reason for which the variance is being requested;
  3. An analysis of the rationale for how the potential public health hazards addressed by the relevant Code sections will be alternatively addressed by the person requesting the variance.
- B. The Department shall review this information and make a determination within 10 days of receiving the variance request. If there is any reason that the determination cannot be made within 10 days, the Department shall notify the license holder with the expected timetable for completing the review of the variance request.
  - C. The Department shall notify the license holder in writing with the Department's decision.
  - D. If the variance request has been denied by the Department, the written notification shall include the reasons for the denial of the request.
  - E. In the event of denial of a variance request, the license holder may request an appeal. A request for an appeal shall be in writing and shall be signed and dated by the license holder. The written request shall be addressed to the Executive Officer of the First District Health Unit and shall be submitted to the FDHU office located in Minot. Within 10 days of receiving the request, the FDHU shall notify the license holder of the date and time of the hearing for the appeal.
  - F. If the variance is approved, the Department shall maintain a copy of the variance request and variance request approval in its records for the facility and shall provide a written variance request approval to the license holder. The license holder shall keep the variance request approval on hand during the duration of time that the variance is in effect, and then for three years after the date that the variance request approval expires. The variance request approval shall detail the length of time for which the variance shall be in effect and shall detail the criteria for renewal of the variance, if applicable.
  - G. The Department is not obligated under any circumstances to approve a request for a variance and may deny such request for any reason.

4-505. Compliance with procedures – variances. If the Department grants a variance the license holder shall comply with the plans and procedures that are submitted and approved as a basis for the modification or waiver. Failure to comply with any conditions specified in a variance shall result in immediate suspension of the variance, and the license holder shall immediately come into compliance with the original Code criteria or requirements for which the variance was granted.

4-506. 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.

4-507. 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 facility in any capacity in which there is a likelihood of the person contaminating food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles with pathogenic organisms or transmitting disease to other individuals. If the license holder or their designate has knowledge of any employee who has contracted a communicable disease or has

become a carrier of such a disease, the license holder or their designate shall immediately notify the department.

## **Section 5. Assisted Living Facilities.**

- 5-1. 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 foot-candle (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.
- 5-2. 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 responder. An emergency evacuation route shall be posted prominently in the facility.

## **Section 6. Bed and Breakfast Facilities.**

- 6-1. Water Supply.
- A. The water supply shall be adequate, of a safe and sanitary quality and from a source approved by the Department.
  - B. The water supply shall not contain bacteriological, chemical or physical impurities that affect or tend to affect public health.
  - C. The water supply shall meet the bacteriological standards of the United States public health service for waters used upon public or interstate common carriers and shall be subject to examination by the Department. If it is unfit for drinking under these requirements, it shall be either improved to meet the requirements or its use shall be discontinued.
  - D. Each private water source shall be sampled and tested for bacteria initially and annually thereafter. Seasonal facilities shall be sampled during the peak operating season.
  - E. Each private water source shall be sampled initially for nitrate analysis. Seasonal facilities shall be sampled during the peak operating season.
  - F. The Department may require additional bacteriological or chemical tests.
  - G. Initially each private source shall be inspected for location, source protection and design standards.
  - H. No cross connections with unapproved water supplies may exist.
  - I. Adequate hot water heating facilities shall be provided. Hot and cold running water under pressure shall be provided to food preparation areas, and any other areas in which water is required for cleaning.
- 6-2. Sewage. All sewers and sewage disposal shall be done in compliance with Section 4-224.
- 6-3. Food Supplies.
- A. Food shall be in sound condition, free from spoilage, filth or other contamination and must be safe for human consumption.
  - B. Food shall be obtained from or be equal to food from sources that comply with all laws relating to food and food labeling.

- C. Before serving any food to the public, the bed and breakfast facility shall comply with all applicable inspections of food required by law.
- D. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the grade A quality standards established by law.

6-4. General food protection.

- A. At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage or overhead drippage from condensation and chemicals.
- B. The temperature of potentially hazardous food must be forty-five degrees F or below or one hundred forty degrees F or above at all times, except during necessary periods of preparation and serving.
- C. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use.
- D. Potentially hazardous frozen food shall be thawed at refrigerator temperatures of forty-five degrees F or below or quick thawed as part of the cooking process.
- E. An indicating thermometer shall be located in each refrigerator.
- F. Raw fruits and vegetables shall be washed thoroughly before use.
- G. Stuffing, poultry, stuffed meats and poultry, and pork and pork products shall be thoroughly cooked before being served.
- H. Salads made of meat, poultry, potatoes, fish, shellfish, or eggs and other potentially hazardous prepared food, shall be prepared, preferably from chilled products, with a minimum of manual contact.
- I. Portions of food, once served to an individual, may not be served again.
- J. Refrigeration facilities, hot food storage facilities, and effective insulated facilities shall be provided as needed to assure the maintenance of all food at required temperatures during storage, preparation and serving.
- K. Live pets are not allowed in any room or area in which food is being prepared for guests.

6-5. Food service equipment and utensils materials.

- A. Multiuse equipment and utensils shall be constructed and repaired with safe materials, including finishing materials, shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use.
- B. Single service articles shall be made from clean, sanitary, safe materials.
- C. Equipment, utensils, and single-service articles may not impart odors, color, or taste, nor contribute to the contamination of food.
- D. Multiuse eating and drinking utensils, kitchenware, and tableware used in a bed and breakfast shall be sanitized after each use.
- E. Acceptable means of dish washing and sanitizing shall be:
  - 1. Manual cleaning and sanitizing utilizing a sink with two or three compartments with approved chemical sanitizer. Utensils shall then be air-dried.
  - 2. Mechanical home style dishwashers with a 160 degree F water supply provided by a booster heater or sanitizing cycle.

6-6. General employee health.

- A. No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that can cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, may work in a bed and breakfast facility in any capacity in which there is a likelihood of such

employee contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

- B. Bed and breakfast employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices.
- C. Employees shall thoroughly wash their hands with soap and warm water before preparing or serving food.

6-7. Lighting and ventilation.

- A. Rooms and areas used in conjunction with bed and breakfast facilities shall be lighted and ventilated as needed and shall be effective under actual use conditions.
- B. Lighting fixtures and ventilating equipment shall be kept clean and in good repair.

6-8. Toilet, handwashing, laundry, and bathing facilities.

- A. Bed and breakfast facilities shall be provided with approved sanitary toilet, hand washing, and bathing facilities. These facilities, and laundry facilities used in conjunction with bed and breakfast facilities, shall be kept clean and in good repair.
- B. All lavatories and baths shall be supplied with hot and cold running water.
- C. Each person that is provided accommodations shall be provided individual soap and clean individual bath cloths and towels.
- D. The temperature of hot water furnished to handwashing sinks (lavatories), showers, and bathtubs may not exceed 120 degrees F.
- E. Clean towels and bath cloths shall be stored and handled in a sanitary manner.

6-9. Beds, linens, and furniture.

- A. Furniture, mattresses, curtains and draperies, etc shall be kept clean and in good repair.
- B. Clean bed linen in good repair shall be provided for each guest who is provided accommodations and shall be changed between guests and as often as necessary.
- C. Clean linen shall be stored and handled in a sanitary manner and kept separate from soiled linen.

6-10. Insect and rodent control.

- A. Effective measures intended to minimize the presence of rodents, flies, and other insects on the premises shall be utilized.
- B. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.
- C. Openings to the outside shall be protected effectively against the entrance of rodents or insects by tight fitting, self-closing doors, closed windows, screening or other means.

6-11. General requirements.

- A. Pesticides, herbicides and other substances that may be hazardous if ingested, inhaled, or handled shall be stored in a closet, cabinet or box not accessible to young children.
- B. Household cleaning agents such as bleaches, detergents, and polishes shall be stored out of the reach of young children.
- C. Medications shall be stored in a separate cabinet, closet or box not accessible to young children.
- D. Bed and breakfast facilities shall be kept in a clean and sanitary condition.

6-12. Fire safety.

- A. All bed and breakfast facilities shall be in compliance with the requirements of the Uniform Building Code and Uniform Fire Code as adopted and enforced by the state fire marshal.

- B. Smoke detectors.
  - 1. A smoke detection device in good operating condition shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. All smoke detectors shall be inspected and listed by underwriters' laboratories or equivalent. Smoke detectors shall be installed in accordance with the manufacturer's installation instructions.
  - 2. A smoke detector shall be installed in the basement of dwelling units having a stairway that opens from the basement into the dwelling. This detector shall be connected to a sounding device or other detector to provide an alarm that will be audible in the sleeping area.
  - 3. The proprietor shall test the smoke detectors as least weekly and shall maintain written records that detail the date and results of the test.
- C. Each sleeping unit shall provide a minimum of fifty square feet of floor area per guest.
- D. Every sleeping unit shall have at least one operable window or exterior door approved for emergency escape or rescue. The window or door shall be operable from the inside to provide a full, clear opening without the use of separate tools. All escapes or rescue windows from lodging units shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Where windows are provided as a means of escape or rescue, they must have a finished sill height not more than 44 inches above the floor.
- E. No sleeping unit in bed and breakfast facilities may be in attic lofts or in basement rooms with a single major means of escape.
- F. A fire extinguisher rated 2A and having a BC rating shall be conveniently located and accessible in the bed and breakfast facility. The maximum travel distance to the extinguisher shall be no more than seventy-five feet.
- G. Emergency numbers shall be posted on the telephones.

## **Section 7. Hunting Lodge/Outfitter Facilities.**

- 7-1. Classification. Hunting lodges and outfitters shall be classified as one of two types:
  - A. Hunting lodges and outfitters that provide food. These facilities may provide all necessary meals to guests.
  - B. Hunting lodges and outfitters that do not provide food. These facilities may not provide any food to guests. They may provide kitchen facilities, utensils, tableware, kitchenware and single use items in compliance with Section 4-3 for use by guests.
- 7-2. Sleeping units - size.
  - A. Each sleeping unit shall have at least 50 square feet of floor space per occupant with a ceiling that is at least seven feet in height.
  - B. In a sleeping unit that has kitchen facilities, at least 100 square feet of floor space shall be provided with 50 square feet of floor space per occupant and a ceiling that is at least seven feet in height.
- 7-3. Emergency lighting. Emergency lighting for means of egress shall be provided in all hunting lodge 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 foot-candle (10 lux). Where each sleeping unit has a direct exit to the outside of the building at ground level, no emergency lighting shall be required.

7-4. Fire safety.

- A. All hunting lodge facilities shall be in compliance with all applicable requirements of the Uniform Building Code and Uniform Fire Code as adopted and enforced by the state fire marshal.
- B. Smoke detectors.
  - 1. A smoke detection device in good operating condition shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used as sleeping units. All smoke detectors shall be inspected and listed by underwriters' laboratories or equivalent. Smoke detectors shall be installed in accordance with the manufacturer's installation instructions.
  - 2. A smoke detector shall be installed in the basement of dwelling units having a stairway that opens from the basement into the dwelling. This detector shall be connected to a sounding device or other detector to provide an alarm that will be audible in the sleeping units.
  - 3. The proprietor shall test the smoke detectors as least weekly and shall maintain written records that detail the date and results of the test.
- C. Each sleeping unit shall provide a minimum of fifty square feet of floor area per guest.
- D. Every sleeping unit shall have at least one operable window or exterior door approved for emergency escape or rescue. The window or door shall be operable from the inside to provide a full, clear opening without the use of separate tools. All escapes or rescue windows from lodging units shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Where windows are provided as a means of escape or rescue, they must have a finished sill height not more than 44 inches above the floor.
- E. No sleeping unit in hunting lodge facilities may be in attic lofts or in basement rooms with a single major means of escape.
- F. At least one fire extinguisher rated 2A and having a BC rating shall be conveniently located and accessible to each sleeping unit in the hunting lodge facility. The maximum travel distance to the nearest fire extinguisher from each sleeping unit shall be no more than seventy-five feet.
- G. Emergency numbers shall be posted at all telephones.

7-5. Game Laws. All hunting lodges shall be operated in a manner that is in full compliance with any and all Federal or State Game and Fish Department rules and regulations. Any notification of the Department of any violations of such regulations may result in suspension or revocation of the hunting lodge license.

7-6. Game Processing.

- A. All hunting lodges where any game or non-game animals are going to be processed shall be equipped with an approved game cleaning area available for use by guests and/or employees.
- B. A game cleaning area shall not be a part of any food preparation or storage area for food, cleaned tableware and utensils, laundered linens, laundered cloths, laundered uniforms, clean bedding and single-service and single-use articles and shall also not be a part of any living quarters, living area or restroom.
- C. No game, including any private game taken by any owner, proprietor or employee, shall be processed in any part of the facility that is not an approved game cleaning area.
- D. All game shall be processed and transported in a manner consistent with Game and Fish Department rules and regulations.

- E. All floors, walls, ceilings and processing areas of an indoor game cleaning area shall be light colored, non-absorbent and easily cleanable. These surfaces shall be durable under conditions of normal use and shall be maintained in good repair. In outdoor game cleaning areas, any processing surfaces shall be light colored, non-absorbent and easily cleanable.
  - F. All game cleaning areas shall be provided with water under pressure.
  - G. The water supply shall be protected against backflow, and any hose bib or faucet to which a hose is attached shall be equipped with a vacuum breaker or some equivalent form of backflow prevention device.
  - H. All game cleaning areas shall be equipped with a lavatory or approved hand wash station.
  - I. Any game cleaning area shall be equipped with a supply of disposable gloves for use by guests or employees while cleaning game.
  - J. Adequate refrigeration and freezing facilities shall be provided to keep all processed game either refrigerated at 41 degrees F or colder or frozen at 0 degrees F or colder, and all game shall be kept at these temperatures except during any necessary periods of preparation or handling.
  - K. Any and all utensils used in the processing of game shall be washed, rinsed, sanitized and air-dried after each use.
  - L. All counters, cutting surfaces and any area contaminated by blood or other materials shall be cleaned and sanitized after each use.
  - M. Where practical, any game animals taken by guests shall be field dressed as soon as possible and then cooled as rapidly as possible so as to prevent spoilage.
  - N. Any entrails or other remains from game shall be disposed of in an approved manner.
- 7-7. Outfitters. Any outfitter operation, or any temporary camp operated by a hunting lodge shall comply with the following requirements.
- A. Any tents or temporary sleeping quarters shall be maintained in whole, sound condition.
  - B. Any bedding, sleeping bags, blankets, cots, mats or similar items provided by the proprietor shall be clean and in good repair. All such items shall be cleaned after each guest and shall be handled and stored in a manner that protects them from contamination and from becoming dirty.
  - C. Water used for drinking shall meet the requirements of the North Dakota Department of Health for potable water. Drinking water shall be from an approved source.
  - D. Any trash, garbage or debris shall be disposed of at an approved disposal site.
  - E. Food handling will be done in compliance the FDHU Requirements for Food and Beverage Establishments as much as is reasonably possible.
    - 1. Any person working with or preparing food shall do so in a way that limits bare hand contact and minimizes physical manipulation of the food.
    - 2. A hand wash station shall be provided for guests and for employees who will work with any food. A hand wash station shall at a minimum consist of a supply of clean, potable water, soap and single use towels.
    - 3. Meat and eggs and any food made with meat or eggs shall be thoroughly cooked before being served. The service of any raw, partially cooked or raw animal foods cooked to temperatures that are less than the highest minimum required cooking temperature is prohibited.
  - F. If used, portable toilets shall be kept clean and in good repair. A supply of toilet tissue shall be provided. Portable toilets shall be emptied and serviced at least yearly, or more often as needed.



## **Section 8. Mobile Home Parks, Trailer Parks, and Campgrounds.**

- 8-1. Garbage containers – metal. All garbage and refuse must be stored in metal, covered, fly proof containers.
- 8-2. Playground facilities. Each mobile home park containing 25 or more lots must have at least one lot sized area of playground for every 25 lots or fraction thereof.
- 8-3. Multiple story parks. No multiple story mobile home park or trailer park may be constructed.
- 8-4. Occupancy record. The license holder is responsible for maintaining a current record of the names of the occupants of the mobile home park, trailer park or campground.
- 8-5. Posting of rules and regulations. The license holder of a mobile home park shall distribute a copy of the pertinent rules and regulations from this Code to each tenant of the park. The owner or manager of a trailer park or campground shall conspicuously post a copy of the pertinent rules and regulations from this Code in a trailer park or campground.
- 8-6. Requirements of response procedures in mobile home parks. The license holder for a mobile home park that has ten or more lots shall establish a procedure for responding to emergencies and complaints by tenants with respect to the mobile home park. The procedure must include the ability to reach a person who has the authority to perform, or direct the performance of, duties imposed on the license holder by this regulation. The procedure must be in writing and a copy must be provided to each tenant.
- 8-7. Ejection from premises. Under Section 23-10-11 of the ND Century Code, the license holder or their designate may eject any person from the premises for nonpayment of charges or fees for accommodations, for a violation of law, for disorderly conduct, for a violation of any regulation of the department, or for a violation of any reasonable rule of the mobile home park, trailer park, or campground that is publicly posted within the park or campground.
- 8-8. Change in use or closure of mobile home park. If the license holder of a mobile home park applies for the rezoning of a park, the license holder shall post a notice of the proposed rezoning in the park at least five days before the public hearing on the rezoning. In addition, the license holder of a mobile home park shall notify all tenants in that park in writing of a change in use at least 180 days before the change in use. A change in use is a change in the park that would alter any portion of the park which is used to lease to mobile home owners so that the portion will no longer be leased to mobile home owners. The license holder or their designate may not increase rent within 90 days before giving notice of a change in use for the portion of the park to which the change will apply.
- 8-9. Security deposit. The amount of a security deposit may not be modified after the initial lease agreement between a mobile home park license holder and tenant has been executed by both parties.
- 8-10. Fire and life safety requirements.
  - A. No portion of a mobile home, excluding the tongue, shall be located closer to any other mobile home, accessory building, or structure than:
    1. 10 feet horizontally side to side, or
    2. Eight feet horizontally end to side, or
    3. Six feet horizontally end to end.

- B. Part A shall not apply if the exposed composite walls and roof of either structure are without openings and constructed of materials that will provide a one hour fire resistant rating or the structures are separated by a one hour fire-rated barrier. Part B shall only apply if the documentation of fire resistance is provided to the Department prior to construction of the fire resistant structure.
- C. Accessory buildings or structures shall be permitted to be located immediately adjacent to a lot line when constructed of materials that do not support combustion and provided that such buildings or structures are not less than three feet from an accessory building or structure on an adjacent lot. An accessory building or structure constructed of combustible materials shall be located no closer than five feet from the bordering lot line.
- D. No mobile home, attachment, accessory building, or structure may be located so as to create a hazard to the mobile home or park occupants or restrict emergency vehicles and personnel from performing necessary services.

8-11. Streets and lots – width, access, surface materials, maintenance.

- A. Streets must be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street. In all cases, streets must meet the following minimum requirements:
  1. Two-way streets with parking on both sides – 34 feet
  2. Two-way streets with parking on one side only – 27 feet
  3. Two-way streets without parking – 24 feet
  4. One-way streets with parking on both sides – 27 feet
  5. One-way streets with parking on one side only – 18 feet
  6. One-way streets without parking – 14 feet
- B. The street system must give an unobstructed access to the public street, highway, or access road.
- C. Streets and lots shall be constructed of such material so as to minimize or prevent the development of ruts or low spots.
- D. Streets and lots shall be maintained free of ruts, low spots and damaged areas.

8-12. Occupied area. The area of a lot in a travel trailer park that is dedicated to, and is actually occupied by, the travel trailer itself shall not exceed 75 percent of the lot size.

8-13. Lot identification. Each lot shall be clearly marked for identification. Such markings shall be easily and distinctly visible from the lot edge facing the street or access.

8-14. Facilities provided.

- A. Conversion of a mobile home park, trailer park, or campground from one type of occupancy to another must be approved by the Department prior to being done.
- B. Streets and walkways must be lighted to provide a minimum average maintained illumination of .4 foot candles (4.31 lux), with a uniformity ratio of no greater than six to one.
- C. The water, electrical, and sewer assemblies and connections of travel trailer parks shall be adequate, approved, and made specifically for the purpose of providing services to individual travel trailers.
- D. The water, electrical and sewer assemblies and connections of mobile home parks shall be adequate, approved and intended for use for the purpose of providing services to individual mobile homes.
- E. Travel trailer dump stations shall be provided and constructed in compliance with the ND State Plumbing Code or local ordinance, whichever is stricter.

- 8-15. Skirting.
- A. All mobile homes shall be completely skirted with an acceptable skirting.
  - B. Any skirting of mobile homes must be of a type and construction which will not provide harborage to animals. Any skirting shall have an access opening provided immediately adjacent to and giving access to all service connections.
- 8-16. Spacing requirements.
- A. No tent, travel trailer or other attachment may be located within 10 feet of any other tent, travel trailer, or part thereof.
  - B. No tent or travel trailer may be located so as to create a hazard to the tent or travel trailer or to restrict emergency vehicles and personnel from performing necessary services.
  - C. Areas intended for occupation by tents shall be designated for tents only by easily visible and prominently located signage.
- 8-17. Water pressure. Where water is provided under pressure in trailer parks:
- A. The system shall be designed to provide a minimum flow pressure of 20 psi, with a minimum flow of 2 gpm at any individual outlet.
  - B. The maximum pressure at any site shall not exceed 80 psi.
- 8-18. Potable water connections at individual sites in a travel trailer park or campground. Each potable water connection shall consist of a water riser pipe that shall be equipped with a threaded male spigot located at least 12 inches but not more than 24 inches above grade that is threaded and sized for the attachment of a standard water hose.
- 8-19. Potable water connections – backflow prevention. Each potable water connection in a trailer park or campground shall be equipped with an atmospheric vacuum breaker.
- 8-20. Sanitary facilities. For stand-alone toilet facilities or service buildings:
- A. Toilets shall be located within a 500 foot radius from any travel trailer lot not provided with an individual sewer connection at all facilities that are not semi-primitive trailer parks and from any camping site at any developed campground.
  - B. Every toilet room shall have a minimum ceiling height of 7 feet.
  - C. Facilities for males and females shall be clearly and permanently marked.
  - D. Unless artificial light is provided, the total window or skylight area shall be equal to at least 10 percent of the floor area.
  - E. Unless provided with an approved mechanical ventilation system, every toilet room shall have a permanent, non-closable, screened opening having a total area not less than five percent of the floor area that opens directly to the exterior in order to provide proper ventilation.
  - F. An approved mechanical ventilation system must be vented to the exterior and having a rating in cubic feet per minute of at least 25 percent of the total volume of the toilet room served shall be considered as meeting the requirements of Subsection E.
  - G. All doors to the exterior shall open outward and shall be self-closing.
- 8-21. Number, location and arrangement of toilets, urinals and lavatories.
- A. In developed trailer parks and in developed campgrounds, a minimum of one toilet shall be provided for each sex for every 25 sites, or fraction thereof.
  - B. If water flush toilets are provided, an equal number of lavatories shall be provided for up to six toilets per sex.

- C. One additional lavatory shall be provided for each two toilets when more than six toilets are required, with at least one lavatory located at each toilet room.
  - D. If separate facilities are provided for men and women, urinals shall be acceptable for no more than one-third of the toilets required in the men's facilities.
- 8-22. Sewer connections at individual sites in trailer parks.
- A. Where provided, sewer connections for individual sites shall be located so as to minimize the risk of physical damage.
  - B. Where provided, sewer connections on individual sites shall be located on the left rear half of the site within four feet of the area of the site intended for the parked location of the travel trailer.
  - C. The sewer connection shall consist of a sewer riser extending vertically to grade.
  - D. The minimum diameter of the sewer riser pipe shall be three inches and it shall be provided with a four inch inlet or a minimum three inch female fitting.
  - E. The sewer riser pipe shall be firmly imbedded in the ground and be protected against damage from heaving or shifting, and from the entrance of surface water.
  - F. The sewer riser pipe shall be provided with a tight fitting plug or cap that shall be secured by a durable chain or equivalent to prevent loss.
  - G. Sewer connections not actively in use shall be capped with the plug or cap specified in Part F.

## **Section 9. Summer Camps.**

- 9-1. Plans and procedures
- A. All camp staff, employees and guests shall receive an initial orientation upon arriving at the camp. The initial orientation shall include information about locations of sleeping units, service buildings, restrooms and toilet facilities, dining facilities and dining schedules, and all other items detailed in this section.
  - B. An approved storm shelter plan shall be maintained and available for review by all guests and employees. All guests and employees shall be made aware of the locations of all storm shelter facilities as part of their initial orientation when arriving at the camp.
  - C. If the camp season covers any period of time during which there is a likelihood of snowfall, an approved snow removal plan shall be maintained and followed during all snow fall events.
  - D. An approved set of rules for the facility shall be posted at a central location in the camp and all guests and employees shall be made aware of the contents of the rules as part of their initial orientation when arriving at the facility.
  - E. A complete listing of phone numbers for emergency contacts and for maintenance and management staff for the facility shall be posted at all phones in the camp.
- 9-2. Laundry facilities. If the camp has cloths, linens, uniforms, or any other cloth items that require washing, then an approved laundry facility shall be maintained on site, or a contract shall be maintained with a third party. If a contract with a third party laundry service is maintained, a copy of the contract shall be provided to the Department.
- 9-3. Food services. Onsite food services shall comply with the FDHU Requirements for Food and Beverage Establishments. Third party providers of food shall comply with the FDHU Requirements for Food and Beverage Establishments.
- 9-4. Food service areas. Food preparation and service areas shall be located at least 500 feet from any areas where livestock are kept or located.

- 9-5. Sleeping units - size.
- A. Each sleeping unit shall have at least 50 square feet of floor space per occupant with a ceiling that is at least seven feet in height.
  - B. In a sleeping unit that has kitchen facilities, at least 100 square feet of floor space shall be provided per occupant with a ceiling that is at least seven feet in height.
- 9-6. Sleeping units – furnishings. Beds, cots, or bunks shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks are prohibited.
- 9-7. Windows – sizing. All sleeping units shall be provided with windows the total area of which shall be not less than one-tenth of the floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.
- 9-8. Water supply.
- A. A water supply shall be capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2 1/2 times the average hourly demand.
  - B. If water under pressure is available, water fountains shall be provided at the ratio of one water fountain per 100 guests.
- 9-9. Toilet rooms.
- A. Each toilet room shall be located so as to be accessible by campers without having to pass through any sleeping unit not occupied by that camper.
  - B. Toilet rooms shall have a window not less than six square feet in area opening directly to the outside area or otherwise be mechanically ventilated.
  - C. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for purposes other than toilet purposes.
  - D. A toilet room shall be located within 200 feet of the door of each sleeping unit.
  - E. Where the toilet rooms are shared, such as in multifamily shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "Men" and "Women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.
  - F. Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one such unit to each 15 persons, with a minimum of two units for any shared facility.
- 9-10. Shower facilities – number. At least one showerhead shall be provided per 10 guests.

**Section 10. Temporary Crew Housing:** The following regulations shall apply to any parcel of land containing three or more housing structures intended for occupancy where housing is provided and is restricted to employees engaged in agricultural, commercial, industrial, transportation, and oil or gas or mineral extraction projects.

10-1. Plans and procedures.

- A. An approved storm shelter plan shall be maintained and available for review by all occupants and employees.
- B. An approved snow removal plan shall be maintained and followed.
- C. An approved set of rules for the facility shall be posted at the entrance into the facility and shall be distributed to all occupants.
- D. A complete listing of phone numbers for emergency contacts and for maintenance and management of the facility shall be posted at the entrance into the facility and shall be distributed to all occupants.

10-2. Laundry facilities. Approved laundry facilities shall be maintained on site.

- A. If a contract with a third party laundry service is maintained, a copy of the contract shall be provided to the Department and all necessary information shall be provided to occupants and employees to ensure unrestricted access to laundry services.
- B. For onsite laundry facilities, at least one washer and dryer shall be provided per 30 people.

10-3. Food services. Onsite food services shall comply with the FDHU Requirements for Food and Beverage Establishments. Third party providers of food shall comply with the FDHU Requirements for Food and Beverage Establishments.

10-4. Food service areas. Food preparation and service areas shall be located at least 500 feet from any areas where livestock are kept or located.

10-5. Sleeping units - size.

- A. Each sleeping unit shall have at least 50 square feet of floor space per occupant with a ceiling that is at least seven feet in height.
- B. In a sleeping unit that has kitchen facilities, at least 100 square feet of floor space shall be provided per occupant with a ceiling that is at least seven feet in height.

10-6. Sleeping units – furnishings. Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks are prohibited.

10-7. Windows – sizing. All sleeping units shall be provided with windows the total area of which shall be not less than one-tenth of the floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.

10-8. Water supply.

- A. A water supply shall be capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2 1/2 times the average hourly demand.

- B. Water outlets shall be distributed throughout the camp in such a manner that no sleeping unit is more than 100 feet from a yard hydrant if water is not piped to the sleeping unit.

10-9. Toilet rooms.

- A. Each toilet room shall be located so as to be accessible without any individual passing through any sleeping room.
- B. Toilet rooms shall have a window not less than six square feet in area opening directly to the outside area or otherwise be mechanically ventilated.
- C. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for purposes other than toilet purposes.
- D. A toilet room shall be located within 200 feet of the door of each sleeping room.
- E. Where the toilet rooms are shared, such as in multifamily shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.
- F. Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one such unit to each 15 persons, with a minimum of two units for any shared facility.

10-10. Shower facilities – number. At least one showerhead shall be provided per 10 persons.

## **Section 11. Tanning Facilities.**

11-1. Advertising.

- A. No tanning facility may state in any advertising, written or verbal, that tanning is free of hazards from ultraviolet radiation or has any health benefits other than those recognized by a credible scientific or medical source. An owner or employee of a tanning facility may not claim, or distribute materials that claim, that using a tanning device is free of risk.
- B. No person may state or imply that any activity under a license has been approved by the department. A tanning facility may not state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.

11-2. Warning Signs.

- A. Tanning facilities shall prominently display a warning sign in each area where a tanning device is used. A sign shall be located within three feet of each device. The sign shall be readily legible, clearly visible and not obstructed by any barrier, equipment or other item present so that the customer can easily view the warning sign before turning on the tanning device.
- B. The lettering on each warning sign shall be at least five millimeters high for the word "WARNING". All capital letters shall be at least 7/32 inch high and all lower case letters shall be at least 1/8 inch high. The warning sign must contain the following warnings:
  - 1. Follow instructions.
  - 2. Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of a tanning device can cause eye and skin injury and allergic reactions. Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

3. Wear FDA (FDA)-approved protective eyewear.
4. Ultraviolet radiation from tanning devices will aggravate the effects of the sun, so do not sunbathe during the twenty-four hours immediately preceding or immediately following the use of a tanning device.
5. Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems, or believe that you are especially sensitive to sunlight. Women who are pregnant or using birth control pills and who use a tanning device may develop discolored skin.
6. If your skin does not tan when exposed to the sun, it is unlikely that your skin will tan when exposed to this tanning device.

- 11-3. Written notice. A tanning facility shall give to each of the tanning facility's customers written notice of the following:
- A. Failure to wear the eye protection provided by the tanning facility may result in damage to the customer's eyes and may cause cataracts.
  - B. Overexposure to a tanning device causes burns.
  - C. Repeated exposure to a tanning device may cause premature aging of the skin and may cause skin cancer.
  - D. Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by:
    1. Certain foods;
    2. Certain cosmetics; and
    3. Certain medications, including tranquilizers, diuretics, antibiotics, blood pressure medications, and birth control pills.
  - E. An individual who takes a drug should consult a physician before using a tanning device.
- 11-4. Lamp Replacement.
- A. The tanning facility shall maintain a record of the date on which each fluorescent tube is replaced.
  - B. The tubes, bulbs or lamps shall be replaced at the frequency recommended by the manufacturer or when the tubes, bulbs or lamps become damaged or defective. A replacement lamp for a tanning unit shall be compatible with the original lamp as specified by the manufacturer of the unit or shall be substantially equivalent to the manufacturer's original lamp type. In this subsection, "substantially equivalent" means within 10% of the UV-B emission of the original lamp and meeting the performance requirements of the U.S. FDA in 21 CFR 1040.20(c) (1).
  - C. The facility shall maintain the device manufacturer's literature indicating the rating, output or intensity of the tube, lamp or bulb required for replacement.
  - D. No tube, bulb or lamp designated for medical use only may be used.
- 11-5. Injury reports.
- A. If a health care provider treats a patient for a sunburn injury and determines, in the exercise of professional judgment, that the injury occurred as a result of using a tanning device at a tanning facility, the health care provider shall report the circumstances of the injury to the state department of health. A health care provider making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.
  - B. If a customer of a tanning facility reports a sunburn injury to that facility resulting from the use of its tanning device, the owner shall provide the customer with written



information on how to report the alleged injury to the department on a form prescribed by the department. The report shall be sent to the department as soon as possible and shall include:

1. The name of the affected individual and date of the actual or alleged injury.
2. The name and location of the tanning facility.
3. The nature of the alleged injury and duration of the tanning exposure.
4. Information on the device involved, such as manufacturer and model number and any other information considered relevant to the situation.
5. The name and address of the health care provider and treatment, if any.

#### 11-6. Recordkeeping.

- A. The operator of a tanning facility shall maintain a customer record for each tanning customer. The customer record shall include the following:
  1. A log of the dates, times and duration of each tanning session for the customer.
  2. A consent form as specified in Section 11-7 (D) detailing that the customer (and guardian for a minor customer) has read and understands the written notice and the warning sign. The consent form must detail that the customer has been given the opportunity to ask any questions they may have and that they have been instructed in the correct operation of the tanning device that they will be using. The consent form shall contain the signature of the customer, the customer's guardian if the customer is a minor, and of the operator or their designate.
  3. Each parental or legal guardian's written consent for customers under eighteen years of age as required in subsection 1A of the heading "Duties of operator".
  4. All customer records shall be maintained for three years after the date of the last tanning visit of that customer. The customer records for tanning customers that have tanning visits in the previous six month period shall be maintained separate from those of customers that do not have any tanning visits in the previous six months.
- B. The operator shall have a device record file for each tanning device in current use at a tanning establishment. The device record shall contain at least the following:
  1. The operating manual along with any other information put out by the manufacturer pertinent to the operation of the tanning bed, including any service-related material and notices or recalls.
  2. The reports for any inspections or maintenance performed on the tanning device, including service and bulb replacement. The maintenance reports shall include the date the work was done, the name of the person doing the work, the nature of the work, the number of operation hours for the device and the outcome of the service.
  3. The device records shall be maintained for three years for all tanning devices located at the facility, including those that are no longer in service.

#### 11-7. Customer Requirements.

- A. A customer under eighteen years of age may not be permitted to use the tanning facility until the customer provides the facility with written consent, in a form prescribed by the department, of a parent or legal guardian to use the tanning facility.
  1. The consent must indicate that the parent or legal guardian has read the warnings required by this chapter and that the customer agrees to wear FDA-approved protective eyewear.
  2. The parent or legal guardian shall provide a notarized statement of consent or sign the consent form in the presence of the owner of the

tanning facility or an employee responsible for the operation of the ultraviolet radiation device of the facility.

3. The written consent form expires twelve months from the date signed.
  4. A customer under the age of fourteen years may not be allowed to utilize a tanning device at a tanning facility without a written order from a physician licensed in this state and without being accompanied by a parent or legal guardian for every use of the tanning facility.
- B. A customer shall not be allowed to use a tanning device unless the customer agrees to the use of FDA-approved protective eyewear.
  - C. The operator shall ensure that a tanning customer is limited to the maximum exposure time recommended by the tanning device manufacturer during any tanning visit.
  - D. A customer shall not be allowed to use a tanning device more than once in a twenty-four hour period starting at the beginning of any single tanning session.
  - E. Immediately before the first use of a tanning facility in a year, the customer shall sign a consent form acknowledging that the customer has read and understands the written notice under the Section 11-3, and the warning sign under Section 11-2 and that the customer agrees to use FDA-approved protective eyewear during the duration of each tanning session.
  - F. The statements under Subsection E above are retained by the tanning facility for at least three years, or until such time as the customer signs a new statement.

#### 11-8. Operator requirements.

- A. During all hours that a tanning facility is open and during which customers have access to use tanning devices, there shall be present at the tanning facility a trained operator who is able to inform customers about, and assist customers in, the proper use of tanning devices.
- B. The operator shall ensure that each tanning bed is properly disinfected after each use.
- C. The operator shall provide to each customer properly disinfected, securely fitting food and drug administration-approved protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance is made available to the customer.
- D. The operator shall show each tanning customer the correct way to operate a tanning device, including how to use such physical aids as handrails and markings on the floor to determine the proper distance from the tanning device.
- E. The operator shall be familiar and conversant in the required contact times for any disinfectants used in the tanning facilities and in the use of any testing equipment as required in Section 11-10, Subsection E.

#### 11-9. Tanning devices.

- A. All tanning equipment used in a tanning establishment shall be manufactured and certified to comply with 21 CFR Part 1040, Section 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products", in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010 Section 1010.3.
- B. All tanning equipment that is equipped with a timer has a timer which complies with the requirements of 21 CFR Part 1040, Section 1040.20(c) (2). The timer shall be incorporated in the tanning device.
- C. The maximum timer interval allowed on any timing device for a tanning device shall not exceed the manufacturer's maximum recommended exposure time.
- D. The timing device shall be accurate to at least ten percent.

- E. The timing device shall be located in such a location so as to be inaccessible to the customer.
- F. The duration of a tanning session shall be set by the operator, and the customer must not be able to extend the length of the tanning session, or begin another tanning session without the direct intervention of the operator.
- G. The tanning device shall be equipped with a mechanism that allows the customer to terminate the tanning session at any point during the tanning session.
- H. Ensure that any and all protective shielding including any protective acrylic sheets or sleeves designed as an original part of the tanning device as made by the manufacturer shall be in place.
- I. Each tanning device shall be maintained in such condition so as to function in the manner as originally designed and intended by the original manufacturer of the tanning device, and in good repair and in such a state so as to be free from hazards and easily cleanable.

11-10. Physical facility, towels, and disinfection.

- A. The interior temperature of the tanning facility shall not exceed one hundred degrees Fahrenheit.
- B. Paper or cloth towels shall be provided to each customer for use during a tanning visit.
- C. No article, equipment, or tanning device shall be used or offered for use by a customer unless that article, equipment or tanning device has first been cleaned and disinfected with an EPA-approved disinfectant.
- D. Any cleaning or disinfecting of any article, equipment, or tanning device shall be done in compliance with the requirements of the original manufacturer of the article, equipment or tanning device.
- E. A test kit or other device that accurately measures the concentration of the disinfecting solution in parts per million (ppm) shall be used to measure the strength of the disinfecting solution when the concentrate and water dilution is initially prepared and at least daily thereafter to ensure sufficient strength of the disinfecting solution.

11-11. Liability. A tanning facility's compliance with this chapter does not relieve the owner or any employee of the tanning facility from liability for injury sustained by a user of a tanning device.

## **Section 12. Child Care Centers.**

12-1. Cots, sleeping mats and cribs.

- A. Any cots or sleeping mats shall be either assigned to an individual child or cleaned and disinfected between uses by different children.
- B. Cots or sleeping mats shall be cleaned and disinfected at least one time per week.
- C. Cots, sleeping mats and cribs shall be maintained in a clean, sanitary condition and in good repair.
- D. Cots, sleeping mats and cribs shall have an aisle that is at least two feet wide between each cot, sleeping mat and crib. Such aisles shall be kept free of obstructions at all times while the cots, sleeping mats and cribs are occupied.

12-2. Physical facilities.

- A. Outdoor trash storage areas and receptacles shall not be located in areas accessible to children or in areas used as play areas.
- B. Indoor trash receptacles shall be lined and covered.
- C. Indoor floor and step surfaces shall not be slippery and shall be maintained free of splinters.

- D. Elevated areas, including stairs and porches, shall have railings and safety gates where necessary to prevent falls.
- E. All exit doors and pathways shall be kept free and shall be easily accessible.
- F. All light bulbs in areas used by children shall be properly shielded or shall be shatterproof.
- G. The license holder shall ensure that potential hazards, including but not limited to, uncovered electrical outlets, guns, chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children.
- H. Guns and ammunition, if present, shall be kept in locked storage facilities separate from each other. Other weapons and dangerous sporting equipment shall not be accessible to children.
- I. During parts of the year where the temperature is below 65 degrees F, the room temperature in all rooms used by children shall be maintained at a temperature that is from 65 degrees F to 75 degrees F while children are present.
- J. All combustible materials shall be kept away from light bulbs and other heat or ignition sources.
- K. In all buildings erected before January 1, 1970, painted surfaces that are peeling, flaking, chipped or chewed shall be remediated of such condition; or the license holder shall provide evidence to the Department that the paints or finishes on those surfaces do not contain hazardous levels of lead bearing substances. For purposes of this section, hazardous levels of lead in these substances is a level of lead or its compounds in excess of 7/10 mg per square centimeter, or in excess of ½ of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.
- L. Handling, sorting, and washing of soiled linens shall take place in designated areas that are separated by permanent partitioning from food preparation, storage and serving area.

12-3. All indoor and outdoor equipment, toys, and supplies shall be safe, strong, nontoxic and maintained in good repair. All such equipment, toys, and supplies shall be clean and maintained in a sanitary condition. Books and other such items that are not easily cleanable must be cleaned and sanitized to the extent possible without damaging the integrity or educational value of the item.

- 12-4. Exterior play areas shall be completely enclosed by an approved fence or other barrier sufficient to restrict any children from any unsafe areas. The fence or barrier shall meet the following:
- A. The bottom of the barrier shall be no more than four inches above grade.
  - B. Openings in the barrier shall not allow passage of a four inch or larger sphere.
  - C. Barriers shall not have indentations or protrusions that would provide hand or foot holds usable to climb the barrier.
  - D. The barrier shall be free of any protrusions or indentations that could pose a hazard.
  - E. If the barrier is composed of horizontal and vertical elements:
    1. The tops of the horizontal members shall be more than 45 inches apart. If the tops are less than 45 inches, then the horizontal elements shall be on the side facing away from the play area.
    2. Spacing between the vertical members shall not exceed one and three-quarter inches.
    3. Decorative cutouts shall not have spacing in the cutouts greater than one and three-quarter inches.

- F. Maximum mesh size for chain link fences shall not exceed one and three-quarter inches square.
- G. If the barrier has diagonal members, the maximum opening formed by the diagonal members shall be one and three-quarter inches.
- H. Access gates shall be equipped with a lock.
- I. Gates shall open outward away from the play area.
- J. Gates shall be self-closing and self-latching.

12-5. Children's personal items.

- A. All children's personal items, such as pacifiers and toothbrushes, shall be individually identified and stored in a sanitary manner separate from those of other children.
- B. Separate storage shall be provided for personal blankets and coverings used with cots, sleeping mats and cribs.

12-6. Pets and animals.

- A. Only cats, dogs, or animals that are contained in an approved closed container may be present in areas occupied by children. Other indoor animals shall be segregated from children and areas occupied by children by a solid barrier, and may not be accessible to children.
- B. The Department may impose additional restrictions on animals that may be present at a child care center if the animal is deemed to be a health or safety hazard.
- C. All animals present at a child care center shall be in good health, and shall have all current immunizations. Documentation of immunization shall be maintained on premises, and must be issued by a licensed veterinarian.
- D. The parents of all children at a child care center shall be notified of the presence of all animals at the center and to what degree the animal is allowed to interact with the children.
- E. If a child is bitten or scratched by an animal at a child care center, the license holder shall immediately notify the parents of the child and the Department.
- F. All contact or interactions between animals and children at the child care center shall be monitored closely by the license holder or their designate. If the animal shows any signs of distress or aggression, the contact or interaction shall be stopped immediately and the animal removed.
- G. No pets or pet paraphernalia may be present in food preparation, food storage, or food serving areas. Food and water dishes, litter boxes and animal wastes may not be present in areas accessible to children.
- H. The license holder shall ensure that the child care center is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

12-7. Only swimming pool and spa facilities licensed by the Department may be used by children of a child care center.

12-8. Hygienic practices.

- A. Staff members and children shall have unrestricted access to toilet and sink facilities.
- B. Staff members and children shall be required to wash their hands, according to recommendations by the federal centers for disease control and prevention, before handling any food, after diapering, after using toilet facilities, and after any other procedure that may involve contact with body fluids.
- C. The diapering area shall be an area that is designated for diapering and that is located separately from food preparation and serving areas.

- D. The diapering area surface material shall be non-absorbent and easily cleanable and shall be cleaned and disinfected after each diapering.
- E. Soiled diapers shall be stored in a sanitary, covered container separate from other garbage and waste and removed from the premises often enough to prevent odors from developing.

12-9. Toilet and sink facilities.

- A. In those facilities that are governed by NDCC 75-03-10, there shall be separate male and female restrooms for those children ages six and over. Toilets in these restrooms shall be separated by partitions.
- B. Toilet training chairs shall be emptied immediately after use, then cleaned and disinfected.
- C. Diapering areas shall be equipped with a handwashing sink used only by caregivers and children as part of the diapering process.

12-10. If common use linens, towels or blankets, or if clothing, towels, or blankets from different children are laundered together, then:

- A. The wash water shall be at least 140 degrees F; or
- B. Chlorine or other approved disinfectant is used in the laundry process during the rinse cycle; or
- C. The center shall use a clothes dryer that reaches a temperature of at least 140 degrees F.

**Section 13. Enforcement.**

13-1. The Department shall clearly state and reference within the code the legally sound basis for compliance and enforcement action, the responsibilities of the parties, sanctions for non-compliance and due process.

13-2. A notice issued in accordance with this code shall be considered to be properly served if it is served by one of the following methods:

- A. The notice is personally served by the Department, a law enforcement officer, or a person authorized to serve a civil process to the license holder or their designate or to a person operating a facility without a valid license;
- B. The notice is sent by the Department to the last known address of the license holder or of the person operating a facility without a valid license, by registered or certified mail or by other public means so that a written acknowledgement of receipt may be required; or
- C. The notice is provided by the Department in accordance with another manner of service authorized by law.

13-3. The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of this Code if the license holder, or any other person operating a facility:

- A. Fails to have a valid permit to operate a facility as specified in Section 2-1;
- B. Violates any term or condition of a permit as specified under Section 4-501;
- C. Allows serious or repeated code violations to remain uncorrected beyond time frames for correction approved, directed, or ordered by the Department under Sections 3-12 and 3-13;
- D. Fails to comply with a summary suspension order issued by the Department as specified in Section 13-401.

#### 13-4. Summary permit suspension.

- 13-401. The Department may summarily suspend a license to operate a facility if it determines through inspection, or examination of employees, food, records, or other means as specified in this code that an imminent health hazard exists.
- 13-402. The Department may summarily suspend a license as specified in Section 13-401 by providing written notice as specified in Section 14-2 of the summary suspension to the license holder or their designate without prior warning, notice of hearing, or a hearing.
- 13-403. A summary suspension notice shall state:
- A. That the facility license is immediately suspended and that all operations shall immediately cease;
  - B. The reasons for summary suspension with reference to the provisions of this code that are in violation;
  - C. The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
  - D. That the license holder may request an appeal hearing by submitting a timely request.
- 13-404. After receiving a written request from the license holder stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the facility for which the license was summarily suspended within 5 business days, which means 5 days during which the Department's office is open to the public.
- 13-405. Term of suspension, reinstatement of license.
- A. A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the Department through reinspection and other means as appropriate.
  - B. The suspended license shall be reinstated immediately if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the license holder or their designate.

#### 13-5. Hearings administration.

- 13-501. Response to notice of hearing or request for hearing, basis and time frame.
- A. A person who receives a notice of hearing for an administrative remedy as specified in Section 13-3 and elects to respond to the notice shall file a response to notice as specified in Section 13-502 within 7 calendar days after service.
  - B. A license applicant may request a hearing regarding the disposition of an application for a new or revised license if the Department does not issue or deny the license within the time frame specified in law.
  - C. A license holder may request a hearing to address concerns about the Department's denial of application for a license or request for a variance,

or compliance actions, except that a hearing request does not stay the imposition of a summary suspension as specified in section 13-4.

- D. A person desiring a hearing in response to a denial of an application for a license or an adverse administrative determination shall submit a hearing request to the Department within 10 calendar days of the date of the denial, inspection, or compliance action, unless the Department specifies in certain situations that the request shall be submitted within a shorter period of time.

- 13-502. A response to a hearing notice or a request for hearing as specified in Section 13-501 shall be in written form and shall contain the following:
  - A. If a response to notice of hearing,
    - 1. An admission or denial of each allegation of fact;
    - 2. A statement as to whether the respondent waives the right to a hearing; and may also contain
    - 3. A statement of defense, mitigation, or explanation concerning any allegation of fact; and
    - 4. A request to the Department for a settlement of the proceeding by consent agreement, if the Department will provide this opportunity.
  - B. If a request for a hearing,
    - 1. A statement of the issue of fact Specified in Section 13-403(B) for which the hearing is requested; and
    - 2. A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.
  - C. If either a response to notice of hearing or a request for a hearing,
    - 1. A statement indicating whether the presence of witnesses for the Department is required; and
    - 2. The name and address of the respondent's or requester's legal counsel, if any.

#### 13-6. Criminal proceedings.

- 13-601. Institution of proceedings.
  - A. Proceedings to enforce this code may be instituted by the Department according to law by filing a misdemeanor complaint affidavit and request for a warrant of arrest with the court of competent jurisdiction or by referring the complaint to a grand jury for indictment, as appropriate.
  - B. The Department may designate a representative to issue summons or citations or sign warrants on behalf of the agency.
- 13-602. The Department may, according to law, petition a court of competent jurisdiction for temporary or permanent injunctive relief to achieve compliance with the provisions of this code or its orders.
- 13-603. A person who violates a provision of this code may be charged with a Class B misdemeanor under Section 23-35-13 of the North Dakota Century Code (NDCC).



## **Section 14. Fire Safety Requirements.**

- 14-1. All facilities in the First District Health Unit shall be constructed in compliance with and operated in compliance with the legally adopted fire Code for the state of North Dakota as well as with the legally adopted building Code for the state of North Dakota. In the event that any item contained in this Code is different from either the fire Code or building Code, then the stricter standard shall be enforced. Unless a stricter standard is otherwise required by law, all fire extinguishers shall be inspected and tagged at least annually.
- 14-2. Each 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.
- 14-3. Every facility shall have adequate exiting as defined by the state building Code in Chapter 54-21.3 with the following exceptions:
  - A. All lodging establishments in existence at the time of implementation of NDCC 23-09 are required to continue with fire escapes previously provided for within that section provided they are deemed adequate by the local fire authority having approval, or by the state fire marshal's office.
  - B. 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.
- 14-4. Access to fire escapes required in this Code must be kept free and clear at all times of all obstructions of any nature. The proprietor of the facility shall provide for adequate exit lighting and exit signs as defined in the state building Code, Chapter 54-21.3.
- 14-5. Each facility must be provided with fire extinguishers as defined by the National Fire Protection Association standard number 10 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 to rules adopted by the state fire marshal.
- 14-6. All new construction of, remodeling of, or additions to lodging establishments or assisted living facilities equipped with passenger or freight elevators must comply with the state building Code fire protection requirements.
- 14-7. Every sleeping room in a lodging establishment shall be equipped with a smoke detection device which has been inspected by and listed by Underwriters Laboratories (UL), factory mutual engineering division or equivalent.
- 14-8. Smoke detectors shall be installed in accordance with the manufacturer's installation instructions.
- 14-9. Lodging establishments 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 30 feet of hallway or exit corridor or fraction thereof.

14-10. At least one sleeping room in every lodging establishment shall be equipped with a listed smoke detection device capable of producing at least eighty-five decibels of sound at least 10 feet and capable of flashing a two hundred fifty watt bulb for a period of five minutes.

14-11. After a smoke detection system has been initially installed, the lodging establishment license holder shall certify in writing to the Department that the system has been tested and that each smoke detection device is working properly. Copies of written installed certifications will be accepted as license holder certifications.

14-12. System inspection – Testing – Maintenance.

- A. No smoke detection device shall be approved unless the device installer:
  - 1. Instructs the license holder or their designate in the operation of the system.
  - 2. Provides the license holder or their designate with a set of written instructions for the proper maintenance and testing of the system.
- B. The license holder or their designate shall test at least 10 percent of the battery operated smoke detectors weekly and at least 10 percent of the hard-wired detectors monthly on a systematic basis. The license holder or their designate shall maintain written records for two years which:
  - 1. Detail the date of the test, the units tested, the name of the person conducting the test, and the results of the test.
  - 2. 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.
- C. The license holder or their designate 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.

**Section 15. Separation.** If any part of this Code is found to be or held invalid that invalidity shall not affect any of the other parts of this Code.

**Section 16. Source.** Items in this Code are taken in whole or in part from the North Dakota Century Code and the North Dakota Administrative Code. It is the responsibility of the proprietor of any facility to identify and comply with any and all other local, state or federal rules and regulations pertaining to the operation of their facility that are not contained herein.

## APPENDIX A

### Facility License Classes

**“Assisted living”** 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 Code includes a facility that is defined as an assisted living facility in any other Code, rule or regulation. 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 of the North Dakota Century Code. An assisted living class license covers the lodging and food operations at such facilities. All food operations are governed by the FDHU Requirements for Food and Beverage Establishments. Assisted living facility food operations are risk level 4, and all food employees at these facilities must take and pass an approved food safety education course.

**“Bed and Breakfast ”** means a private home that is used to provide accommodations to the public, with not more than seven lodging units, in which no more than two family-style meals per day are provided. The bed and breakfast class license covers the lodging and food operations at such facilities. Both the lodging and food operations are governed by Section 6 of this Code.

**“Campground”** means any parcel of land containing three or more lots intended for occupancy by tents. Campground class licenses cover only the lodging component of the facility. Campgrounds shall be designated as one of the following:

- A. “Primitive campgrounds” are those accessible only by walk-in, pack-in, or equestrian campers and that are not equipped with any facilities.
- B. “Semi-primitive campgrounds” are those accessible by road and if provided with facilities for the comfort and convenience of guests are only provided with rudimentary facilities (such as privies or vault toilets and wells equipped with hand pumps).
- C. “Developed campgrounds” are those that are not “primitive campgrounds” or “semi-primitive campgrounds”.

**“Child care center”** means a facility that is required to meet the requirements found in ND Administrative Code Chapters 75-03-10-18 or 75-03-09-18. Child care center class licenses cover the non-food and food operations at such facilities. All food operations are governed by the FDHU Requirements for Food and Beverage Establishments. Child care center food operations are risk level 4, and all food employees at these facilities must take and pass an approved food safety education course.

**“Hunting lodge”** means any establishment at which lodging and/or food are provided to any person or group of persons which is not a hotel, motel, assisted living facility, crew housing facility, summer camp or bed and breakfast. All hunting lodge food operations are governed by the FDHU Requirements for Food and Beverage Establishments. All food employees at these facilities must take and pass an approved food education course.

**“Mobile Home Park”** means any parcel of land containing three or more lots intended for occupancy by mobile homes. Mobile home park class licenses cover only the lodging component of the facility.

**“Motel”** means any building or structure, or any part thereof that is kept, used, maintained or held out to the public as a place where sleeping accommodations are furnished to transient guests. This term includes any hotel, motel, resort, building or structure but does not include a facility providing personal care directly or through contract as defined in section 23-09.3-01 of the North Dakota Century Code. This term does not include primitive lodging cabins, hunting lodges/outfitters, bed and breakfasts, or ranches. Motel class licenses cover only the lodging component of the facility.

**“Summer camp”** means an establishment that provides recreational and athletic facilities for people, usually during the summer months, and that involve providing food and/or overnight accommodations. All summer camp food operations are governed by the FDHU Requirements for Food and Beverage Establishments. All food employees at these facilities must take and pass an approved food education course.

**“Tanning facility”** means a place or business that provides individuals access to a tanning device. Tanning class licenses cover only the tanning components of the facility.

**“Temporary crew housing”** means any parcel of land containing three or more housing structures intended for occupancy where housing is provided and is restricted to employees engaged in agricultural, commercial, industrial, transportation, and oil or gas or mineral extraction projects. All temporary crew housing food operations are governed by the FDHU Requirements for Food and Beverage Establishments. All food employees at these facilities must take and pass an approved food education course.

**“Trailer Park”** means any parcel of land containing three or more lots intended for occupancy by travel trailers, and shall be designated one of the following:

- A. “Semi-developed trailer parks” are those trailer parks that have lots that do not have individual sewer, water and electrical connections and that provide only rudimentary facilities (such as privies or vault toilets) for the comfort and convenience of guests.
- B. “Developed trailer parks” are those that are not “semi-developed trailer parks”.

Trailer park class licenses cover only the lodging components of the facility.