

# Starting a North Dakota Bed and Breakfast Business

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## Defining a B & B

“Bed and breakfast facility” means a private home that is used to provide accommodations for a charge to the public, with not more than seven lodging units, in which no more than two family style meals are provided per day<sup>1</sup>. To be designated a “bed and breakfast,” the facility must be the private residence of the host. Other types of lodging, such as on-the-farm/ranch cabins, restored farm houses or hunting cabins, are considered lodges or inns and not a bed and breakfast.

The North Dakota Department of Health, Division of Food and Lodging, is responsible for licensing, qualifying, classifying, inspecting and regulating people providing bed and breakfast facilities in private homes. That includes making sure bed and breakfasts follow the rules affecting the health and safety of the facility and the people using the facility. The facility must meet the minimum requirements as designated by law in North Dakota Administrative Code Section 33-33-06 and Chapter 23-09.1 of the North Dakota Century Code. Complete requirements are provided at [www.ndhealth.gov/foodlodging](http://www.ndhealth.gov/foodlodging). They also are available by calling toll-free (800) 472-2927.

## License Requirements

Before a B & B can open for operation in North Dakota, it must be licensed by the state Department of Health. The current licensing fee is \$35 per year. Applications are made in writing on forms furnished by the department and must be renewed and paid by Dec. 31 of each year. Licenses issued by the department are nontransferable and not applicable to any premises other than those for which the license was issued. The department is required to inspect each B & B at least once every two years.

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<sup>1</sup> North Dakota Century Code, “Bed and Breakfast Facilities,” chapter 23-09.1

## Water and Sewage Rules

- **Water** – The water supply must be adequate, safe and from a source approved by the department. If the water source is from a private well, it must be tested initially and annually for bacteria. Water also must have an initial nitrate analysis, and an initial inspection for location, source protection and design standards. Private wells must be at least 50 feet from septic tanks, barnyards, feedlots and high-water marks of nearby lakes and streams. They also must be at least 30 feet from a basement. All wells must be disinfected properly. The department recommends that disinfecting records and bacteriological and chemical analyses be kept. For specific information required, see 1.b.i, Record Maintenance, under Bed and Breakfast Facilities Guidelines to Minimum Requirements in the Lodging Establishment Handbook of the Department of Health.
- **Sewage** – All sewage shall be disposed of in a public sewerage system or in a sewage disposal system approved by the Department of Health.

## Food Service

- **Food supplies** – Food must be free from contamination and safe. It must be obtained from or equal to food from sources that comply with all laws relating to food and food labeling. Only Grade A pasteurized milk and milk products from an approved source can be used. Eggs must be clean, fresh and uncracked, and meat products must be USDA inspected. Home-grown vegetables can be used but only if fresh or frozen. No home-canned foods can be served.
- **Food handling** – The temperature of potentially hazardous food must be kept at 40 F or below and 140 F or above at all times except during preparation and serving. Portions of food once served cannot be served again. The law requires that a metal-stemmed food thermometer be used for monitoring food temperatures.

Safe food handling is the responsibility of the “host.” He/she must train employees and other household members properly in safe food handling procedures and requirements outlined in the Century Code. For safe food handling information, contact Julie Garden-Robinson, NDSU Extension Service food and nutrition specialist, at (701) 231-7187 or by e-mail at [julie.garden-robinson@ndsu.edu](mailto:julie.garden-robinson@ndsu.edu), or visit the Web site [www.ag.ndsu.edu/food](http://www.ag.ndsu.edu/food).

- **Household pets** – Pets are not allowed in any room or area in which food is being prepared for guests.
- **Food service equipment** – All utensils, kitchenware and dishes used are to be sanitized after each use. Manual cleaning and sanitizing using a sink with two compartments is acceptable for dishwashing. Use an approved chemical sanitizer and air dry the utensils. If a dishwasher is used, the water temperature must be 160 F in the sanitizing cycle.

## Fire Safety, Zoning and Taxes

Bed and breakfast operators need to be knowledgeable about fire safety, zoning and taxes.

- **Fire** – All B & Bs must be in compliance with the requirements of the Uniform Building Code and Uniform Fire Code as adapted and enforced by the state fire marshal. Requirements include smoke detectors centrally located on each floor with sleeping rooms and in the basement stairway. They must have battery backup and be connected or have a sounding device to provide an alarm that can be heard in all sleeping areas. Every sleeping room must provide at least 50 square feet of floor area per guest and have an operable window of 5.7 square feet or more of clear opening or an exterior door for emergency escape or rescue. The maximum distance to a fire extinguisher rated 2A and having a BC rating is 75 feet.

- For additional information on the Uniform Fire and Building Codes, contact the North Dakota fire marshal at (701) 328-5555.
- **Zoning** – Most counties and cities differ somewhat on their zoning laws. Bed and breakfast operators must become acquainted with local restrictions and/or special requirements. Contact your planning and zoning board for local requirements.
- **Taxes** – B & Bs fall under the categories of hotels/motels and restaurants for tax purposes. Gross receipts for short-term room rental and meals are subject to sales tax. If gift items or other retail items are sold, those receipts are also subject to sales tax. Tax forms, guidelines, income tax statutes, administrative rules and other information can be obtained from the Office of State Tax Commission at (701) 328-2770 or [www.nd.gov/tax](http://www.nd.gov/tax).

## Registering Your Business Name

Most businesses in North Dakota have a filing obligation with the secretary of state. Call (800) 352-0867 or see the Web site at [www.nd.gov/sos](http://www.nd.gov/sos) for information on your business. Registration requirements will depend on the legal structure of your business. If you are a sole proprietor, you will need to register your trade name. Go to [www.nd.gov/businessreg](http://www.nd.gov/businessreg) for a copy of the required form.

The current filing fee is \$25 for five years.

## Important

Contact your insurance agent to update your current policy, if needed, to cover your new business. Also, reviewing your business plan with your financial adviser and any contracts with your attorney always is a good idea.

## Business Forms and Other Available Information

A new site was developed by cooperating state agencies to help people going into business. This site provides links to agencies and has information regarding state and federal requirements plus employee tax information. To access the site, go to [www.nd.gov/businessreg](http://www.nd.gov/businessreg).

Contact the Business Information Center at (800) 544-4674 and check out the "How To Start a Bed & Breakfast Start Up Guide" and see the North Dakota Bed and Breakfast Association Web site at [www.ndbba.com](http://www.ndbba.com) for additional information on North Dakota B & Bs.

## References

- North Dakota Century Code, 2002, "Bed and Breakfast Facilities," chapter 23-09.1
- Office of State Tax Commission, 1997, "Sales and Use Tax Guideline For: Hotels and Motels"
- Secretary of State, "Trade Name Registration," Web page [www.nd.gov/sos](http://www.nd.gov/sos)
- Tweeten, Kathleen, 2002 "Agritainment Resource Handbook," sections 7, 10-11.
- Huss, Jim, Robert Haxton and Diane Nelson, "Starting a Bed and Breakfast in Iowa, Laws That Apply," Iowa State University Extension, January 2001



**For more information on this and other topics, see: [www.ag.ndsu.edu](http://www.ag.ndsu.edu)**

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