

**ARTICLE 108-03
MANUFACTURED HOME INSTALLATION PROGRAM**

Chapter
108-03-01 Manufactured Home Installation Program

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108-03-01-01. History.

In 2003 the legislative assembly created North Dakota Century Code section 54-21.3-08, to establish a manufactured home installation program. The law requires the division of community services to adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280, adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.]. The law is in response to the 2000 Manufactured Housing Improvement Act that requires a state to have a manufactured home installation program, or to have the federal government impose an installation program.

In 2005 the legislative assembly amended North Dakota Century Code section 54-21.3-08, renaming it adoption of an installation program and providing a penalty.

History: Effective January 1, 2006.
General Authority: NDCC 54-21.3-08
Law Implemented: NDCC 54-21.3-08

108-03-01-02. Scope.

This administrative chapter pertains to the first-time installation of each manufactured home installed in North Dakota in a temporary or permanent location and which is designed and commonly used for occupancy by persons for residential purposes beginning July 1, 2006. Each installed manufactured home must display an insignia issued by the department of commerce division of community services, certifying that the home is installed in compliance with this chapter.

Temporary installations for the purpose of home display or office use which will be relocated to another location to use as a residence are exempted from this chapter.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-03. Definitions.

1. "Certified inspector" means an employee of a participating jurisdiction, individual, employee of a private firm, employee of a manufacturer, housing inspector, or a North Dakota licensed engineer or architect who has been approved by the division to perform or enforce installation inspections.
2. "Conflict of interest" means when there is a personal or private interest sufficient to influence or appears to influence the proper exercise of duties and responsibilities.
3. "Division" means the division of community services.
4. "Insignia" means a certificate or label of installation issued by the division to indicate compliance with the manufacturer's installation instructions and this chapter.
5. "Installation" means assembly, at the site of occupancy, of all portions of the manufactured home, connection of the manufactured home to existing utility connections that may not require licensing by other state agencies, and installation of support or anchoring systems, in accordance with the manufacturer's installation instructions or the alternate standards adopted in this chapter.
6. "Installation authorization" or "installation permit" means a notice posted on the site of an installation indicating that the installer has authorization to install.
7. "Installation committee" means the committee to assist in the development and implementation of the manufactured home installation program. Represented on the committee are the division of community services, two representatives from the North Dakota building officials association, two representatives from the North Dakota league of cities, and the board of directors of the North Dakota manufactured housing association.
8. "Installer" means any person who attaches the manufactured unit sections together and ties the home to its foundation support and anchoring system.
9. "Manufactured home" means a federal housing and urban development (HUD) labeled structure, transportable in one or more sections that, in its traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty or more square feet [29.73 square meters]; that is built on a permanent chassis; that is designed to be used as a dwelling; that may or may not have a permanent foundation; that is connected to the required utilities; and that contains the plumbing, heating, air-conditioning, and electrical systems; except that such term shall include any structure that meets the size requirements and for which the manufacturer has voluntarily filed a certification required by the secretary of housing and urban development and that complies with the manufactured home construction and safety standards.

NOTE: This definition should not be interpreted to include any type of recreational vehicle that may equal or exceed the body length or width specified herein.

10. "Owner" means the owner of a manufactured home or property.

11. "Participating jurisdiction" means a local government entity with a building code department which has agreed to administer and inspect manufactured housing installations within the legal and extraterritorial boundaries of the jurisdiction by employing or contracting with a certified inspector.
12. "Registered installer" means an installer that has registered with the division and is in compliance with the manufactured home installation program requirements.
13. "Standards" means the manufacturer's installation instructions or alternate federal standards adopted by the division. The division may issue interpretations of the standards to be followed during installations and inspections. A local jurisdiction may enact additional standards concerning unique public safety requirements, such as weight restrictions for snow loads or wind shear factors, but must provide these requirements in writing to the division of community services before enacting and enforcing them.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-04. Inquiries.

Inquiries about this program may be addressed to:

Manufactured Home Installation Program Manager
North Dakota Department of Commerce
Division of Community Services
1600 East Century Avenue, Suite 2
Bismarck, ND 58503

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-05. Administration.

The administration of this program is the responsibility of the division of community services.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-06. Installers of manufactured homes - Registration.

Manufactured home installers in North Dakota shall first register with the division. If any of the application information for the registered installer changes after issuance of the registration, the registered installer shall notify the division in writing within thirty days from the date of the change. A registration shall not be transferred nor assigned to another person.

At the time that an initial application for registration is filed, the following must be submitted:

1. Name of the installer and company;
2. Proof in the form of a copy of a valid driver's license or certificate of birth that the applicant is at least eighteen years of age;
3. Evidence from the applicant of attendance at training provided by the state or state-approved online course and passage of the North Dakota installation program examination at the next available training provided by the state;

4. Proof of contractor's liability insurance in an amount not less than two hundred fifty thousand dollars. This insurance policy shall contain a provision for the immediate notification of the division upon cancellation; and
5. A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars for the performance of installation pursuant to the manufacturer's installation instructions. A provision shall be included for the immediate notification of the division upon cancellation.

The application for registration as a manufactured home installer shall be submitted on a form provided by the division and shall be notarized and verified by a declaration signed under penalty of perjury by the applicant. The division shall make the application and declaration available for public inspection.

The registration period is from July first of each year through June thirtieth of the following year. All registrations expire on the same date of each year, whether or not the registration is issued for all or a portion of the registration period, and registration fees will be prorated based on the date of approval for registration. A registered installer will be required to attend training every three years provided by the state and pass the written test that is given every three years.

Persons employed by a registered installer, as well as persons employed by an entity employing a registered installer, are not required to register when performing installation functions under the direct onsite supervision of a registered installer. The registered installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under the registered installer's supervision.

Any registered installer seeking to renew registration shall, at the time of applying for renewal, provide proof of liability insurance and letter of credit, certificate of deposit, or surety bond to run concurrent with the registration period.

Registered installers shall allow and pay for periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program and registration requirements. The frequency of oversight inspections will be based on the findings of the inspections. The division may also arrange for the inspection of any manufactured home installation performed by a registered installer. This may also occur as the result of a consumer complaint.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-07. Installation by owner.

A person who owns the manufactured home or the real property where the home is to be installed is not required to register as an installer if that person does that person's own installation but shall comply with all provisions of this chapter other than the registration provision.

A person who installs more than one manufactured home in any twelve-month period, either owned or on real property owned by such person, must register as an installer and shall comply with the registration provisions.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-08. City, county, or township requirements.

A political subdivision may not issue a building or zoning permit for the first-time installation of a manufactured home to an unregistered installer. The political subdivision is required to report any such person attempting to obtain a permit to the division. Any building or zoning permit issued must contain the registration number of the installer issued by the division.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-09. Certified installer.

Repealed effective July 1, 2020.

108-03-01-10. Certified installation inspector.

The division may authorize individuals to perform inspections and enforce the proper installation of manufactured homes. Enforcement shall include issuance of installation authorizations and permanent insignias certifying compliance with the manufacturer's installation instructions.

Applicants for certified installation inspector shall furnish written evidence of a minimum of six months of manufactured home installation experience or equivalent training or related experience or state of North Dakota professional licensing in engineering. Applicants must have attended training provided by the state and passed the installation program examination or passed a state-approved online course. Certified inspectors will be required to attend training every three years provided by the state and pass a written test that is given. The certification period is from July first of each year through June thirtieth of the following year.

All registrations expire on the same date of each year, whether or not the registration is issued for all or a portion of the registration period, and registration fees will be prorated based on the date of approval for registration as set in the policies and procedures.

The application for registration as a certified installation inspector must be submitted on a form provided by the division and must be notarized and verified by a declaration signed under penalty of perjury by the applicant. The division shall make the application and declaration available for public inspection.

If a local government entity has a building code department, the jurisdiction may make a written request to be the exclusive independent installation inspection agency within the jurisdiction's legal and extraterritorial boundaries as a participating jurisdiction. When approved, all manufactured home installation inspections will be made by that participating jurisdiction's certified inspector or by a certified inspector under contract to the jurisdiction. In the event of a consumer complaint, the division will make arrangements to conduct the complaint inspection within the participating jurisdiction. If a local government entity decides not to be a participating jurisdiction, its authority with respect to the installation of a manufactured home is limited to inspecting the construction of a permanent foundation for the home. It may not inspect the actual installation of the home.

A certified inspector shall not make inspections if the inspector has a conflict of interest that may affect the inspector's responsibility to make fair and impartial inspections.

A certified inspector and a participating jurisdiction with a certified inspector shall be authorized to issue an installation authorization and to purchase and affix insignias after the installation is completed and inspected. A certified inspector shall complete a monthly report of installation authorizations issued and insignias affixed.

Certified inspectors shall allow and pay for periodic oversight inspections arranged by the division to monitor installations that have been inspected to monitor the certified inspector's compliance with program requirements. The frequency of oversight inspections will be based on the findings of the inspections. The division may also arrange for the inspection of the installation of any manufactured home inspected by a certified inspector.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-11. Standards.

Since this program pertains only to the first-time installation of a manufactured home, the primary standards are the specifications provided in the manufacturer's installation instructions. However, alternate standards developed by the federal department of housing and urban development and adopted by the state may also be utilized. Standards for construction of permanent foundations are the responsibility of the local jurisdiction in which a manufactured home is installed if it varies from the manufacturer's installation instructions. Variations may require approved engineered or architectural plans.

Nothing in this section shall preclude a local government from enacting standards for manufactured homes concerning unique public safety requirements as otherwise permitted by law.

From time to time the division, in consultation with the installation committee, may issue interpretations of the standards to be followed during the course of manufactured home installations and inspections.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-12. Inspection procedures.

The division shall adopt a standard installation authorization form to be used statewide by the division and certified inspectors, a standard inspection form, and minimum inspection requirements. Inspection forms shall be maintained for a minimum of three years from the date of the attachment of the installation insignia. The number of inspections required to be performed to determine compliance with the manufacturer's installation instructions or alternate standards adopted by the division will be determined by the inspector based on the inspector's ability to properly inspect all areas required on the minimum inspection requirements and the work performed by the registered installer. Generally, however, there will be a minimum of one inspection on a single-wide and two inspections on multisection homes.

Prior to beginning the installation of a manufactured home, the owner or registered installer of a manufactured home shall make an application for an installation authorization from a participating jurisdiction or certified installation inspector. The installation authorization is valid for thirty days from the date of issuance and may be extended for an additional thirty days upon written approval by the issuing entity.

Owners and registered installers shall display an installation authorization at the site of the manufactured home to be installed until an installation insignia is attached certifying compliance with the manufacturer's installation instructions. The authorization will contain the identity of the installer and owner, a telephone number and contact person, and whether or not the installer is the owner or a registered installer. The authorization will also include the name, address, and telephone number of the issuing entity.

During installation and inspection, a copy of the manufacturer's installation instructions or alternate standards shall be available at all times onsite. The installer shall be responsible to maintain the copy of the manufacturer's installation instructions onsite. If the manufacturer's installation instructions or alternate standards are not present at the time of the inspection, the inspector may fail the inspection and require a reinspection. All costs of the inspection and any reinspection will be borne by the installer.

The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.

When the installation of a manufactured home is found to be in compliance with the manufacturer's installation instructions or alternate standards, an insignia will be permanently attached by the inspector making the inspection. The insignia will be placed within sixty inches [152.4 centimeters] of the HUD label.

When a manufactured home installation is found not to be in compliance by a certified inspector with the manufacturer's installation instructions, the installer shall be notified in writing by the inspector. At the time of the inspection, the inspector may include in the inspection report instructions for the installer to call for a reinspection at any stage of installation to prevent coverup of any part of the installation requiring reinspection by the inspector.

The installer shall pay for any repair required to bring the installation into compliance and shall pay for any subsequent inspections.

If an installation or subsequent repair of an installation by an installer fails to meet the manufacturer's installation instructions within the time limit allowed by the inspector, the inspector shall notify the installer that the installation is in default. The installer shall be given ten working days after notification of default to bring the installation into compliance. Any independent inspector that knows of an installation that is in default and has not been corrected by subsequent repair shall request that the division arrange for an investigation of the installation.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-13. Complaints.

The division may cause to be investigated any complaint concerning the installation of a manufactured home filed in writing by an owner, dealer, manufacturer, installer, or certified inspector. The division may designate a certified inspector or other qualified entity to make complaint inspections on behalf of the division. The initial costs of processing complaints will be paid through a fund established from a portion of the registration, certification, and insignia fees. If a complaint is determined to be valid, the installer and inspector must reimburse the division for the costs incurred investigating the complaint and any reinspections.

If a participating jurisdiction or a certified inspector finds an installation of a manufactured home to be in default, the jurisdiction or inspector shall file a written complaint with the division against the installer. Complaints received by telephone shall be confirmed in writing.

If the installation of a manufactured home fails the complaint inspection, the registered installer must make and pay for the repairs to bring the installation into compliance and the installer and inspector shall pay the costs associated with the complaint inspection and with any subsequent inspections. Failure of the installer to pay for repairs and failure of the installer and inspector subsequent inspections shall result in the revocation of registration and certification.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-14. Suspension or revocation.

The division may permanently revoke or temporarily suspend the registration or certification of an installer or inspector.

Reasons for suspension include:

1. Failure to file each year and keep current, a letter of credit, certificate of deposit, or surety bond as required. License may be reinstated when bond is brought up to date.
2. Failure to file each year and keep current, the required liability insurance. License may be reinstated when insurance is brought up to date.
3. Failure to notify the division of changes in application information. License may be reinstated when information is corrected.
4. Failure to pay all assessed inspection fees. License may be reinstated when fees are paid in full.
5. Failure to make all required repairs that are needed to bring the installation into compliance with the manufacturer's installation instructions. License may be reinstated when all repairs are completed.
6. Failure to pass periodic oversight inspections. The installer has the opportunity to make needed repairs found during the oversight inspection. If the needed repairs are not made in the time allowed, the installer's license can be suspended.
7. Failure to pay all necessary training and registration fees. License may be reinstated when fees are paid in full.
8. Failure to file required monthly reports with correct information.
 - a. Inspectors may not purchase insignias if their reports are overdue.
 - b. License may be reinstated when reports are up to date.

Reasons for permanent revocation include:

1. Failure to correct any defects in the installation in the time period established by the division.
2. If there are multiple problems with homes found during oversight inspections or from complaints.
3. Multiple suspensions or problems caused by not following the rules.

The division shall track suspensions and revocations.

When the certification of a certified inspector is revoked, suspended, or not renewed, the certified inspector must immediately return to the division all unused installation insignias and the inspector will lose the right to purchase and install insignias.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-15. Appeal of revocation or suspension.

A registered installer or certified inspector subject to revocation, suspension, or nonrenewal may appeal the revocation or suspension to the director of the division of community services. Further appeal may be heard under the procedures found in North Dakota Century Code chapter 28-32.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-16. Installation insignias.

The division shall adopt a standard insignia to be used statewide indicating that a manufactured home is installed in compliance with the manufacturer's installation instructions.

The insignia shall include the name, address, and telephone number of the division, the date the installation was completed, and the name, address, telephone number, and registration number of the installer.

Insignias shall remain the property of the state of North Dakota and are not subject to refunds.

When an installation insignia is lost or damaged, the division must be notified in writing.

The division reserves the right to refuse to sell installation insignias to certified inspectors based on findings of noncompliance with this chapter until findings are resolved.

The possession of unattached insignias is limited to the division and certified inspectors. Insignias must be kept secure. If an inspector's certification is revoked or the certified inspector is no longer in business, any labels in their possession must immediately be returned to the division.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-17. Reports.

The division will establish and maintain a system of databases and procedures for reporting. Each certified inspector must submit a monthly report accounting for insignias, both issued and on hand by serial number. The report is due by the fifteenth of the following month. A report is required even if no labels were issued during the month.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-18. Penalty.

Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-19. Fees.

The following nonrefundable fees apply:

1. Installer registration - \$150 per year.

2. Nonparticipating jurisdiction certified inspector - \$150 per year.
3. Participating jurisdiction certified inspector registration - \$50 per year.
4. Installation insignia - \$50 per label.
5. Oversight inspection - \$250 per inspection.
6. Oversight reinspection fee - \$125 to both the installer and the certified inspector.
7. Training registration - \$50.
8. Training manual - \$25.
9. Late registration fee - \$25.

Certified inspectors may charge their own reasonable fees for conducting compliance inspections and reinspections.

History: Effective January 1, 2006; amended effective July 1, 2020.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08