



New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION
Home Inspector Board

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REGULAR BOARD MEETING

Home Inspector Board

Meeting held through Cisco Webex teleconferencing

October 28, 2020

9:00 a.m.

MINUTES

I. CONVENE AND ROLL CALL

Chair Jeff Gorum called the New Mexico Home Inspector Regular meeting to order at 9:06 a.m. Jeanette Contreras took roll call and it was determined a quorum was present. Member W.A. “Tony” Major joined the meeting at 9:08.

MEMBERS PRESENT:

Jeff Gorum, Chair, Professional Member
C. Earl Greer, Vice-Chair, Real Estate Broker
Robin Wood Millard, Professional Member
Eugene Miles Dyson, Professional Member
W.A. “Tony” Major, Public Member

STAFF PRESENT:

Jeanette Contreras, Acting Board Administrator
John Kreienkamp, Asst. Attorney General
Wayne Ciddio, RLD Deputy Director
Alexa Martinez, RLD Financial and Licensing Administrator
Gloria Regensberg, RLD Division Counsel

II. APPROVAL OF AGENDA

Vice-Chair Greer made a **MOTION** to approve the agenda as written. Member Dyson **SECONDED** the motion. Motion **PASSED** by **UNANIMOUS APPROVAL** through roll call vote.

III. APPROVAL OF MINUTES

September 28, 2020 Special Meeting

Vice-Chair Greer made a **MOTION** to approve the September 28, 2020 Special Board Meeting Minutes as written. Member Wood Millard **SECONDED** the motion. Motion **PASSED** by **UNANIMOUS APPROVAL** through roll call vote.

IV. REPORTS

a) Chair’s Report

Chair Gorum emphasized on the importance of this board meeting with the adoption of the rules as an agenda item. Chair Gorum explained that putting these rules together took a lot of time and effort and he thanked all who were involved. The Chair explained that one problem with the proposed rules that would be discussed today is deciding whether the Board will accept only one national examination (NHIE) or two (NHIE and InterNACHI). The Chair

made several comments in response to statements made by the rules committee. The Chair explained that the Rules Committee stated that choosing the one examination, NHIE, was not a consensus because two committee members were not present. The Chair also explained that if the Board decides to accept one examination, the State would be divided.

b) Rules Committee Report

Rule Committee member Mile Dyson explained that the rules committee met on October 5, 2020 and talked through a number of items. Member Dyson explained that the decision to allow for only one examination (NHIE) was a consensus of the Rules Committee. Member Dyson stated that the goal of the Rules Committee was to consider everyone's opinions and comments and reviewed all comments submitted.

c) Board Administrator Report

Jeanette Contreras thanked the board members and the public for joining the Webex meeting and thanked all who were involved with the proposed rules. Ms. Contreras explained that she is working on completing the licensing applications. Ms. Contreras welcomed back Wayne Ciddio and allowed him to say hello to the Board members.

V. PUBLIC COMMENT

Charles Smith – Home Inspector since 2002 and a member of the Rules Committee
Mr. Smith stated that the Rules Committee voted unanimously to

Eric Thorn – NBPHI Representative

Mr. Thorn explained that for 20 years the Examination Board of Professional Home Inspectors (EBPHI) has been completely independent and not affiliated with members.

Raul Carrillo –

Mr. Carrillo asked the Board if there will be a standard home inspector report that has to be used. Chair Gorum responded that each company can use their own report as long as it meets the Boards Standard of Practice.

VI. NEW BUSINESS

- a) Adoption of the proposed rules, with possible changes based on Board discussion and public comment:

Part 1: General Provisions

Part 2: Fees

Part 3: Applications and Licenses

Part 4: License Renewals and Reactivations

Part 5: Continuing Education

Part 6: Code of Ethics

Part 7: Standards of Practice

Part 8: Disciplinary Proceedings

Part 9: Insurance

Each individual part of the proposed rules were open for discussion and amendment recommendations. Only parts one (1), three (3), and seven (7) had

recommended changes. The amendment proposals were recommendations from Chair Gorum (attachment A) and the Rules Committee (attachment B). Please see attachment A and B for the full list of proposed recommendations from the Board Chair and the Rules Committee.

Part One (1) –

For part one there was discussion regarding the examination and definitions. Vice-Chair Greer made a comment that the Board is representing all of New Mexico and if we limit the examination to only NHIE, we may be creating a disadvantage or advantage for inspectors who chose one examination over another. Vice-Chair Greer also mentioned the Board should consider creating their own examination.

Member Dyson explained that licensing of home inspectors is to protect the homebuyers of the State. Member Dyson explained that NHIE went through great pains to become the main standard for testing and 32 states use this examination exclusively.

Chair Gorum suggested that each Board member vote on if they want to use one examination exclusively (NHIE) or allow two different examinations to be accepted (NHIE and InterNACHI). Below is how each member voted:

Chair Gorum – Allow for two examinations to be accepted
Vic-Chair Greer – Allow for two examinations to be accepted
Member Dyson – Accept the NHIE examination exclusively
Member Wood Millard – Accept the NHIE examination exclusively
Member Major – Accept the NHIE examination exclusively

Please see attachment A and B for the full list of proposed recommendations from the Board Chair and the Rules Committee that were discussed during part one.

Part Three (3) –

Discussion of the examination was made during part one.

Please see attachment A and B for the full list of proposed recommendations from the Board Chair and the Rules Committee that were discussed during part three.

Part (7) –

Please see attachment A and B for the full list of proposed recommendations from the Board Chair and the Rules Committee that were discussed during part seven.

The Board decided to table the adoption of the rules until the next meeting, November 13, 2020. This delay in adopting the proposed rules is to allow the Board to review a clean copy with the proposed amendments included.

- b) Creation of an application committee, including the appointment of members.

Because the adoption of the proposed rules was tabled until the next scheduled board meeting, November 13, 2020, it was recommended by legal counsel to table this agenda item for a future Board meeting.

VII. NEXT MEETING DATE & LOCATION

Scheduled next meeting for November 13, 2020 at 9:00 a.m. via Cisco Webex Meetings.

VIII. ADJOURN

There being no further board business, the meeting was adjourned at 1:14 p.m.

APPROVED BY:



Jeff Gorum, BOARD CHAIR

EXHIBIT A

Chairman Amendment Recommendations

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 1 GENERAL PROVISIONS

16.66.1.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.1.1 NMAC – N, __/__/20]

16.66.1.2 SCOPE: The provisions in Part 1 of Chapter 66 apply to all parts of Title 16, Chapter 66 and provide relevant information to licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in Chapter 66 of Title 16.
[16.66.1.2 NMAC – N, __/__/20]

16.66.1.3 STATUTORY AUTHORITY: Part 1 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.1.3 NMAC – N, __/__/20]

16.66.1.4 DURATION: Permanent.
[16.66.1.4 NMAC – N, __/__/20]

16.66.1.5 EFFECTIVE DATE: To be determined.
[16.66.1.5 NMAC – N, __/__/20]

16.66.1.6 OBJECTIVE: The objective of Part 1 of Chapter 66 is to set forth the provisions which apply to all of Chapter 66 of Title 16 and to define the terms and terminology related to home inspectors used through Chapter 66 of Title 16.
[16.66.1.6 NMAC – N, __/__/20]

16.61.1.7 DEFINITIONS: As used in this rule:

A. These rules adopt, as if stated herein, all of the definitions contained in NMSA 1978, Section 61-24D-2, including but not limited to:

(1) the definition of “home inspection” in NMSA 1978, Section 61-24D-2(E); means a non-invasive, non-destructive examination by a person of the interior and exterior components of a residential real property, including the property's structural components, foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its carports, garages and reasonably accessible installed components. "Home inspection" includes the examination of the property's heating, cooling, plumbing and electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner; The process by which the readily accessible systems and components of a home are examined in accordance with the NM Standards of Practice and

(2) the definition of “home inspector” in NMSA 1978, Section 61-24D-2(F) means a person who performs home inspection for compensation and who is issued a New Mexico Home Inspector’s license.

B. “Access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person. Its edges and fasteners are not painted in place. Access panels are limited to those panels within normal reach at human height or from a stepladder, and those which are not blocked by stored items, furniture, or building components;

C. “Activate” means the act of turning on, supplying power, or otherwise enabling systems, equipment, or devices to become active by normal operating controls;

D. “Adverse condition” means a condition which is producing, or which has the potential to produce, a detrimental effect on a system or component that either impairs the system or component’s normally intended function or operation or which is inconsistent with generally established practice(s) regarding the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use;

E. “Alarm” means a warning device that is either permanently installed or freestanding, including but not limited to smoke detectors and alarms, carbon-monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps, and smoke alarms;

- F. "Appliance" means a household device powered by electricity or gas, but not including central heating, central cooling, or plumbing components;
- G. "Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures, and the use of space within and surrounding the structures or the design, design development, preparation of construction contract documents, and administration of the construction contract;
- H. "Automatic safety controls" means devices designed and installed to protect systems and components;
- I. "Board" means the New Mexico Home Inspectors Board;
- J. "Built-in appliance" means a permanently installed appliance such as a ceiling fan, dishwasher or trash compactor that requires a tool for disassembly or removal, but not including any freestanding appliances.
- K. "Central air conditioning" means a system which uses ducts to distribute either or both cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room. This definition does not include systems or appliances that are plugged into an electrical convenience outlet;
- L. "Component" means a constituent element or part of a system;
- M. "Concealed, latent, or intermittent condition" means any condition affecting any system or component which occurs after the inspection or is intermittent or otherwise not reasonably detectable by a competent and professional home inspector for any reason during the inspection;
- N. "Condition" means the visible and conspicuous state of being of an object regarding its appearance, quality, or working order;
- O. "Cosmetic imperfection" means an irregularity or imperfection which does not affect a component's normally intended function or operation, and which could but is not required to be repaired;
- P. "Crawlspace" or "underfloor crawlspace" means the area within the confines of the foundation and between the ground and the underside of the lowest floor's structural components;
Add and re-number as appropriate: DESCRIBE – means to document in writing.
- Q. "Dismantle" means the act of taking apart or removing any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and which would not otherwise be taken apart or removed by a homeowner in the course of normal household maintenance;
- R. "Engineering" means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus;
- S. "Engineering service" means any professional service or creative work requiring engineering education, training and experience, and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works and/or processes;
- T. "Foundation" means the base upon which a structure or wall rests, typically constituted by masonry, concrete, or stone, and typically located at least partially underground;
- U. "Function" means the action for which an item, component, or system is specially fitted or used, or for which an item, component, or system exists;
- V. "Functional" means the ability of an item, component, or system to perform its function;
- W. "Functional drainage" means the act or ability of a drain to empty in a reasonable amount of time without overflowing when another fixture is drained simultaneously;
- X. "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously;
- Y. "Further evaluation" means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by a home inspection. Further evaluation may provide additional clarification, provide needed repairs, or discover additional adverse conditions that need modifications or repairs for the component or system to perform its normally intended function or operation **provided by an appropriately licensed or qualified individual**;
- Z. "Generally established practice" means a practice of or pertaining to one or more of the following: the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use of residential systems and their related materials and components. Generally established practices may vary based on whether they were applicable at the time of construction or whether modifications to the property were made after the original construction;

Add and re-number as appropriate: IDENTIFY – means to describe a specific system or component by its type and to distinguish it by characteristics such as general or specific material(s), energy source(s), etc. which differentiate that system of component from other similar systems and components.

AA. “Inspected Property” means the readily accessible areas of the buildings, site, items, components and systems included in the Home Inspection;

BB. “Licensure by endorsement” means the process by which an individual applicant applies for a license as a home inspector in New Mexico on the basis of the applicant’s pre-existing license in another jurisdiction;

CC. “Licensure by training and examination” means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s education, training, and passage of the National Home Inspector Examination (NHIE) or a proctored administration of InterNACHI’s Home Inspector Exam;

DD. “Licensure by experience and examination” means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s previous work in New Mexico as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020, the applicant’s performance of at least one hundred (100) home inspections for compensation in the twenty-four (24) months immediately preceding January 1, 2020, and the applicant’s passage of the National Home Inspector Examination (NHIE) or any administration of InterNACHI’s Home Inspector Exam;

EE. “National Home Inspector Examination” or “NHIE” means the examination offered, conducted, and proctored by the Examination Board of Professional Home Inspectors (EBPHI); InterNACHI’s Home Inspector Exam means the examination offered either online or proctored, as appropriate, by the International Association of Certified Home Inspectors.

FF. “Normal operating controls” means thermostats, switches, valves, and other devices intended by design and manufacture to be used by homeowners or occupants in the normal and regular day-to-day operation of systems or components;

GG. “Normally intended function or operation” means the customary or conventional purpose or use for which a system or component is installed and for which it is designed or intended by its manufacturer;

HH. “On-site water supply quality” means water quality based on the bacterial, chemical, mineral, and solids content of the water;

II. “On-site water supply quantity” means the rate of flow of water;

JJ. “Permanently installed” means an item, system, or component designed or intended to remain where originally placed, not easily moved, and which is attached, connected, or set in place for use so as to render moving or removing the item, system, or component impossible without the use of tools or equipment;

KK. “Professional liability insurance” means general liability insurance;

Add and renumber as appropriate: “QUALIFIED” - means having the training, skills, knowledge, expertise, experience, competence and any special tools, or equipment necessary to address Adverse Conditions and Routine Maintenance conditions and, where applicable, holding all required licenses and meeting all applicable industry standards and all governmental and statutory requirements.

LL. “Reactivation” means the process and board act of reactivating an inactive or expired license, thereby permitting the licensee to engage in the practice of home inspection;

NN. “Readily accessible” means visually observable and able to be examined without requiring destructive measures; without risk to the inspector or others; without risk of damage to any item of personal or real property; without requiring the inspector to move, remove, damage, or disturb any wall, floor, ceiling, or window coverings; or any interior or exterior claddings or finish treatments; to move, remove, damage, disturb, climb upon, climb over, or straddle any item of personal property; to move, remove, damage, or disturb any landscape elements; or to interrupt the business of occupants, and not requiring disassembly or the use of any special protective clothing or special tools or equipment;

OO. “Readily openable access panel” means a panel located within normal reach or from a 4-foot stepladder, and which is not blocked by stored items, furniture, or building components, provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person, and its edges and fasteners are not painted in place, but not including electrical panelboard enclosure dead front covers;

PP. “Residential Recreational facilities” means residential spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground and other similar equipment, and associated accessories at the inspected property;

QQ. “Reinstatement” means the process and board act of reinstating a suspended or revoked license, thereby permitting the licensee to engage in the practice of home inspection either with or without future conditions;

RR. “Representative number” means, for multiple identical components such as windows and electric outlets, the inspection of a **minimum of** one such component per room, and for multiple identical exterior components, the inspection of a **minimum of** one such component on each side of the building for multiple similar exterior components; **when practical, all accessible components should be inspected.**

SS. “Roof drainage systems” means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off of a roof and away from a building;

TT. “Routine maintenance” means typical, regular, ongoing, and expected maintenance which is part of an ongoing and prudent overall property and building systems upkeep program;

UU. “Safety glazing” means tempered glass, laminated glass, or rigid plastic;

VV. “Shut down” means a piece of equipment whose safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, or a system that cannot be operated by the device or control that a homeowner should normally use to operate it;

WW. “Solid fuel heating device” means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces, whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices;

XX. “Structural component” means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads). For purposes of this definition, a dead load is the fixed weight of a structure or piece of equipment, such as a roof structure on bearing walls, and a live load is a moving variable weight added to the dead load or intrinsic weight of a structure;

YY. “System” means a permanently-installed group of interacting, interrelated, or interdependent components historically and conventionally designed and intended to perform one or more specific functions;

ZZ. “Technically exhaustive” means a comprehensive and detailed examination beyond the scope of a real estate home inspection that would involve or include, but would not be limited to: dismantling, specialized knowledge or training, special equipment, measurements, calculations, testing, research, analysis, or other means;

AAA. “Wall cladding” means a protective or insulating layer fixed to the outside of a building such as aluminum, brick, EIFS, stone, stucco, vinyl, or wood;

BBB. “Wiring method” means the identification of electrical conductors or wires by their general type, such as nonmetallic sheathed cable, armored cable, and knob and tube.

[16.66.1.7 NMAC – N, __/__/20]

16.61.1.8 OFFICES: The office of the New Mexico home inspectors board will be located in Albuquerque, New Mexico.

[16.66.1.8 NMAC – N, __/__/20]

16.61.1.9 TELEPHONIC MEETING ATTENDANCE: A board member may participate in a board meeting by means of a conference telephone or similar communications equipment only when it is difficult or impossible for the board member to physically attend the meeting. A board member attending by means of conference telephone or similar communications equipment must attest in open session during the meeting that his or her in-person attendance was difficult or impossible.

[16.66.1.9 NMAC – N, __/__/20]

16.61.1.10 ADVISORY COMMITTEES: To assist and advise the board in its functions and mission, the board may, at its discretion, utilize advisory committees consisting of board members, volunteers, or both. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind. The board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee. The committees the board may create and utilize include, but are not necessarily limited to, the following:

A. Rules Committee: The board may utilize a rules committee to study the board’s rules and provide nonbinding recommendations as to future changes and improvements.

B. Complaint Committee: The board may utilize a complaint committee to review disciplinary complaints against licensees and unlicensed practitioners and provide recommendations as to the final disposition of those complaints.

C. Application Committee: The board may utilize an application committee to review applications for licensure and provide recommendations as to whether the board should grant or deny those applications;

D. Continuing Education Committee: The board may utilize a continuing education committee for the purpose of providing nonbinding recommendations as to whether to accept a proposed continuing education course towards licensees' continuing education requirements.

[16.66.1.10 NMAC – N, __/__/20]

16.61.1.11 LISTS AND STATEMENTS:

A. The board staff shall maintain a list of the names and addresses of all licensees.

B. The board staff shall maintain a list of all persons whose licenses have been suspended or revoked in that particular calendar year.

C. The board staff shall maintain a statement of all funds received and a statement of all disbursements.

[16.66.1.11 NMAC – N, __/__/20]

16.61.1.12 SIGNATURES: A record, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the Chair, Vice-Chair, or Board Administrator.

[16.66.1.12 NMAC – N, __/__/20]

16.61.1.13 RULE IMPLEMENTATION PERIOD:

A. Within six (6) months of the effective date of these rules, any individual engaged in the practice of home inspection in New Mexico shall be required to obtain a license issued by the board as a condition of engaging in the future practice of home inspection in New Mexico.

(1) On the date falling six (6) months after the effective date of these rules or on the date declared by the Board in the event of a state of emergency as provided in subsection (2) of this rule, whichever is later, any individual engaged in the unlicensed practice of home inspection in New Mexico shall be subject to disciplinary action by the board. The board may also, as it deems appropriate, request the attorney general or district attorney of the judicial district in which the person resides or in which the violation is occurring or has occurred to maintain an action in the name of the state to prosecute the unlicensed practitioner or to enjoin the act or practice.

(2) Extension of Implementation Period due to State of Emergency: In the event that the Governor declares a state of emergency due to the spread of an infectious disease that extends beyond the six (6) months provided for in this rule, the Board may vote at an open meeting to extend the rule implementation period beyond those initial six (6) months if, in the opinion of the Board, the state of emergency hinders prospective applicants from completing the necessary prerequisites to licensure. Any extension of the rule implementation period shall last no longer than thirty (30) days after the expiration of the state of emergency declared by the Governor.

C. Nothing in this rule permits any person engaged in the practice of home inspection, whether licensed or unlicensed, to violate the code of ethics or standards of conduct as adopted by the board, nor does it permit such a person to violate the Home Inspector Licensing Act. Any action in violation of these rules or the Home Inspector Licensing Act may be considered by the board as part of an individual's application for licensure.

[16.66.1.13 NMAC – N, __/__/20]

HISTORY OF 16.66.1 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 66 HOME INSPECTOR LICENSING

PART 2 FEES

16.66.2.1 ISSUING AGENCY: New Mexico home inspectors board.

[16.66.2.1 NMAC – N, __/__/20]

16.66.2.2 SCOPE: The provisions of Part 2 of Chapter 66 apply to all applicants for home inspector licenses, and home inspector licensees.
[16.66.2.2 NMAC – N, __/__/20]

16.66.2.3 STATUTORY AUTHORITY: Part 2 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.2.3 NMAC – N, __/__/20]

16.66.2.4 DURATION: Permanent
[16.66.2.4 NMAC – N, __/__/20]

16.66.2.5 EFFECTIVE DATE: To be determined.
[16.66.2.5 NMAC – N, __/__/20]

16.66.2.6 OBJECTIVE: The objective of Part 2 of Chapter 66 is to establish fees to generate revenues necessary for the home inspector licensing board to carry out its administrative functions.
[16.66.2.6 NMAC – N, __/__/20]

16.66.2.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.2.7 NMAC – N, __/__/20]

16.66.2.8 FEES: The board shall establish, charge and collect:

- A.** For each initial application for a home inspector license, a fee of two hundred and fifty dollars (\$250);
- B.** For an initial three-year license, a fee of one thousand dollars (\$1,000). If a new licensee receives an initial one- or a two-year license pursuant to Part 3 of these rules, this fee shall be prorated as follows:
 - (1) For an initial one-year license, a fee of three hundred and thirty-three dollars (\$333);
 - (2) For an initial two-year license, a fee of six hundred and sixty-six dollars (\$666);
- C.** For renewal of a three-year license, a fee of one thousand dollars (\$1,000);
- D.** For reactivation of an inactive license, a fee of fifty dollars (\$50);
- E.** For reactivation of an expired license, a fee of one hundred dollars (\$100);
- F.** For reinstatement of a suspended or revoked license, a fee of two hundred dollars (\$200);
- G.** For each duplicate license issued because a license is lost or destroyed, a fee of fifty dollars (\$50), provided that the licensee shall submit an affidavit attesting to the loss or destruction of the license before the board issues a duplicate license.

[16.66.2.8 NMAC – N, __/__/20]

16.66.2.9 FEES NON-REFUNDABLE: Fees paid to the board pursuant to 16.66.2.8 NMAC of the board rules are non-refundable. Requests for refunds or exceptions to this rule shall not be considered by the board.
[16.66.2.9 NMAC – N, __/__/20]

HISTORY OF 16.66.2 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 3 APPLICATIONS AND LICENSES

16.66.3.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.3.1 NMAC – N, __/__/20]

16.66.3.2 SCOPE: The provisions in Part 3 of Chapter 66 apply to all applicants for home inspector licenses, and home inspector licensees.
[16.66.3.2 NMAC – N, __/__/20]

16.66.3.3 STATUTORY AUTHORITY: Part 3 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.3.3 NMAC – N, __/__/20]

16.66.3.4 DURATION: Permanent.
[16.66.3.4 NMAC – N, __/__/20]

16.66.3.5 EFFECTIVE DATE: To be determined.
[16.66.3.5 NMAC – N, __/__/20]

16.66.3.6 OBJECTIVE: The objective of Part 3 of Chapter 66 is to set forth provisions governing applications for licensure as a home inspector and examinations.
[16.66.3.6 NMAC – N, __/__/20]

16.66.3.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.3.7 NMAC – N, __/__/20]

16.66.3.8 APPLICATION FOR LICENSURE BY **TRAINING AND EXAMINATION**

A. The board shall issue a license to an applicant for licensure by examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) Completion of at least eighty (80) hours of classroom training:

(a) The cumulative total of eighty (80) hours of classroom training must include all of the following subjects:

- (i) Site characteristics and exterior;
- (ii) Structural components;
- (iii) Roofing;
- (iv) Plumbing;
- (v) Electrical;
- (vi) Heating, cooling, and air conditioning;
- (vii) Interiors, appliances, and garages;
- (viii) Insulation and ventilation;
- (ix) Fireplaces and fuel burning appliances;
- (x) New Mexico standards of practice and code of ethics;
- (xi) Business practices, including New Mexico rules and

regulations, pre-inspection agreements, and report writing.

(b) All eighty (80) hours of classroom training must be obtained through an educational course that satisfies one of the following criteria:

- (i) The course is approved or accepted by another governmental state home inspector licensing authority;
- (ii) The course is approved by the United States Department of Education or the New Mexico Department of Education; or
- (iii) The course is designated as pre-licensing education and is certified or approved by any society, institute, council, or association of home inspectors;

(c) All eighty (80) hours of classroom training may be completed online;

(6) Passage of the **National Home Inspector Examination (NHIE) or a proctored administration of InterNACHI's Home Inspector Exam;**

(7) Completion of a total of at least eighty (80) hours of field training spent conducting **a minimum of** thirty (30) parallel home inspections, evidenced by documents including, but not necessarily limited to, a completed board-issued inspection log, pre-inspection agreements, notarized affidavits, and other similarly-reliable evidence;

(8) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(9) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

B. For the purposes of this rule, parallel home inspections mean inspections that are either:

(1) Conducted in New Mexico prior to the effective date of this rule; or

(2) Those home inspections at which the applicant, for observational, experiential, and educational purposes, accompanied another home inspector who:

(i) Is legally engaged in the practice and profession of home inspection in the jurisdiction in which the home inspection is conducted;

(ii) Has at least two (2) years of experience in the profession of home inspection; and

(iii) Has previously completed at least one hundred (100) home inspections for compensation.

[16.66.3.8 NMAC – N, ___/___/20]

16.66.3.9 APPLICATION FOR LICENSURE BY EXPERIENCE AND EXAMINATION

A. An individual is eligible for licensure by experience and examination if the individual satisfies both of the following criteria:

(1) The applicant worked as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020; and

(2) The applicant performed at least one hundred (100) home inspections for compensation in the twenty-four (24) months immediately preceding January 1, 2020.

B. The board shall issue a home inspector license to applicant for licensure by experience and examination if the applicant fulfills the following requirements and provides the following information and evidence:

(1) Completion of the board-issued application form;

(2) Payment of the non-refundable application fee in full as provided in Part 2;

(3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;

(4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;

(5) Passage of a national home inspector examination. For the purposes of this rule, the applicant must either have passed the **National Home Inspector Examination (NHIE) or any administration of InterNACHI's Home Inspector Exam**; ~~national home inspector examination (NHIE), or have passed prior to the effective date of this rule a different national home inspector examination not the NHIE~~ subject to the following limitations:

(i) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and

~~(ii) The examination must have been proctored and the applicant must provide evidence as to this requirement.~~

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(7) Provision to the board of sufficient documentation and evidence to establish the applicant's home inspector activities in the twenty-four (24) months immediately preceding January 1, 2020. Such documentation may include, but is not limited to, tax records, notarized affidavits from persons other than the applicant, pre-inspection agreements, and other similarly-reliable evidence of the applicant's home inspection activities in the twenty-four (24) months immediately preceding January 1, 2020.

C. For the purposes of this rule, the phrase "worked as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020" means having personally conducted any business activity directly associated with the profession of home inspection but is not limited to having conducted an actual home inspection. To qualify for licensure by experience and examination, an individual does not need to have personally conducted a home inspection in each of the twenty-four (24) months immediately preceding January 1, 2020, if that individual conducted another business activity directly associated with the profession of home inspection during each of the twenty-four (24) months.

[16.66.3.9 NMAC – N, ___/___/20]

16.66.3.10 APPLICATION FOR LICENSURE BY CREDENTIALS

A. An applicant who holds a license in good standing to practice as a home inspector in another state may be granted a license by virtue of the applicant's credentials if the applicant's resident state license requirements are the same as or similar to the requirements set forth in the Home Inspector Licensing Act as determined by the board.

B. An applicant applying for licensure on the basis of the applicant's credentials as described in subsection A of this rule shall be required to provide to the board:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) A certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state;
- (6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and
- (7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

C. Pursuant to the Home Inspector Licensing Act, the board may negotiate agreements with other states or licensing jurisdictions to allow for reciprocity regarding licensure. A license granted pursuant to a reciprocity agreement shall be issued upon:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) The applicant's provision to the board of a certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state.
- (6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and
- (7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.
- (8) Satisfactory Evidence that the applicant has successfully passed a National Home Inspection Exam as defined in Part 16.66.1 and evidence the applicant has completed a minimum 4 hour course in New Mexico rules and regulations, pre-inspection agreements, and report writing.

[16.66.3.10 NMAC – N, ___/___/20]

16.66.3.11 EXAMINATIONS

A. Licensure by examination: All applicants for licensure by examination must either pass the National Home Inspector Examination (NHIE) or a proctored administration of InterNACHI's Home Inspector Exam or have previously passed the NHIE national home inspector examination (NHIE) following the date of application for licensure with the Board or have previously passed the national home inspector examination (NHIE) prior to the date of the applicant's application for licensure.

B. Licensure by experience and examination: All applicants for licensure by experience and examination must either:

- (1) Pass after applying for licensure or have passed prior to application the national home inspector examination (NHIE) or any administration of InterNACHI's Home Inspector Exam; or

(2) Have passed prior to the effective date of this rule a national home inspector examination, **as defined in Part 16.66.1.7**, ~~prior to the date of the applicant's application for licensure.~~ A national home inspector examination ~~not the NHIE~~ taken previously is acceptable subject to the following limitations:

(i) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; ~~and~~

(ii) ~~The examination must have been proctored and the applicant must provide evidence as to this requirement.~~

C. Licensure by credentials: Applicants for licensure by licensure by credentials are not required to provide the Board with evidence as to prior examination passage. However, the Board will consider whether the applicant's prior licensing jurisdiction requires the passage of a national examination in determining whether the prior licensing jurisdiction's standards are substantially equivalent to those in New Mexico.

D. It is the applicant's responsibility to make all arrangements with the ~~examination board of professional home inspectors (EBPHI)~~ **testing organization** to take the ~~NHIE~~ **appropriate national exam**.

E. The applicant shall send the applicant's examination score to the Board, provided that the examination score must be in a document originally written by the organization or entity that administered the examination.

F. Any applicant who fails the ~~NHIE~~ **chosen exam** may retake the exam at the next available opportunity.

[16.66.3.11 NMAC – N, __/__/20]

16.66.3.12 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, CHILDREN, AND RECENT VETERANS

A. Pursuant to Section 61-1-34 of the Uniform Licensing Act, any individual who is a military service member, spouse, or child, or who is a recent veteran having received an honorable discharge or separation from military service within the three years immediately preceding the date of the individual's application, is entitled to expedited licensure as provided herein.

B. Such an individual eligible for expedited licensure shall submit:

(1) An application for licensure on a form provided by the Regulation and Licensing Department;

(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, whose licensure standards are substantially equivalent to those set forth in these rules and the Home Inspector Licensing Act;

(3) Proof of honorable discharge, military identification card, proof of marriage for spousal status, or proof of the individual's parentage so as to qualify for an expedited license pursuant to Section 61-1-34 of the Uniform Licensing Act; and

(4) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

C. An individual eligible for expedited licensure shall not be required to pay an application fee or an initial three-year license fee.

[16.66.3.12 NMAC – N, __/__/20]

16.66.3.13 INITIAL LICENSE LENGTH (RULE IN EFFECT UNTIL DECEMBER 31, 2021)

A. A new license issued pursuant to these rules shall be valid for no more than three (3) years. Until the close of business on December 31, 2021, initial license expiration dates shall be staggered and initial licenses shall be issued for durations of one (1), two (2), or three (3) years for the purposes of ensuring an orderly expiration period and the continuity of professional home inspector services in New Mexico. The durations of licenses shall be determined at random by Board staff. Each new license shall expire either after one (1), two (2), or three (3) years.

B. Following the expiration of each initial license, the licensee shall be issued a license for a duration of three (3) years.

C. This rule shall automatically, without further rulemaking action on the part of the Board, expire as of the close of business on December 31, 2021.

[16.66.3.13 NMAC – N, __/__/20]

16.66.3.14 LICENSURE PROCEDURE

A. Upon receipt of a completed application, including all required documentation and fees, the Board's application committee, should the Board choose in its discretion to utilize such a committee, may provide a non-binding and purely advisory recommendation as to whether the Board should grant or deny the application.

B. No license may be issued until the applicant has paid the non-refundable, but potentially prorated as provided in these rules, initial license fee in full.

[16.66.3.14 NMAC – N, __/__/20]

HISTORY OF 16.66.3 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 4 LICENSE RENEWALS AND REACTIVATIONS

16.66.4.1 ISSUING AGENCY: New Mexico home inspectors board.

[16.66.4.1 NMAC – N, __/__/20]

16.66.4.2 SCOPE: The provisions in Part 4 of Chapter 66 apply to all applicants for home inspector licenses, and home inspector licensees.

[16.66.4.2 NMAC – N, __/__/20]

16.66.4.3 STATUTORY AUTHORITY: Part 4 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).

[16.66.4.3 NMAC – N, __/__/20]

16.66.4.4 DURATION: Permanent.

[16.66.4.4 NMAC – N, __/__/20]

16.66.4.5 EFFECTIVE DATE: To be determined.

[16.66.4.5 NMAC – N, __/__/20]

16.66.4.6 OBJECTIVE: The objective of Part 4 of Chapter 66 is to set forth provisions governing renewals of home inspector licenses and reactivation of expired and inactive licenses.

[16.66.4.6 NMAC – N, __/__/20]

16.66.4.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.

[16.66.4.7 NMAC – N, __/__/20]

16.66.4.8 LICENSE RENEWAL

A. A home inspector license shall be valid during the dates specified in the license itself and as provided in these rules. Once renewed, all licenses shall be for a duration of three (3) years.

B. **Renewal Date:** A licensee may apply for renewal of the licensee's license no later than the date specified as the expiration date on the applicant's license.

C. A licensee seeking the renewal of the license shall provide to the board in accordance with the deadlines specified in this rule:

- (1) A completed renewal application;
- (2) Payment of the non-refundable renewal fee in full as provided in Part 2;
- (3) Proof of completion of required continuing education as provided in Part 5;
- (4) Provision to the board of all information necessary for the board to complete a state and national criminal background check; and
- (5) Satisfactory evidence that the licensee has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

D. The board office will send, either through electronic means or through postal mail, a renewal notice to each licensee no later than forty-five (45) days prior to the expiration of the license at the

licensee's address on record. Timely renewal of a license is the full and complete responsibility of the licensee. If the licensee does not receive a renewal notification from the board, it is the responsibility of the licensee to contact the board office.

E. The licensee's failure to receive the board's renewal notification will not exempt the licensee from licensure expiration or late penalty fees.

F. Each licensee is responsible for submitting the required renewal fee by the expiration date irrespective of whether a renewal notice is received by the licensee, and licensees shall not practice on expired licenses under any circumstances.

[16.66.4.8 NMAC – N, __/__/20]

16.66.4.9 INACTIVE STATUS

A. A license in good standing may, upon written request to the board by the licensee, be placed on inactive status prior to its expiration.

B. A licensee possessing an inactive license may not engage in the practice of home inspection in the State of New Mexico.

C. A license may remain on inactive status indefinitely.

D. A licensee must renew an inactive license no later than the expiration date specified on the license. A licensee seeking to renew an inactive license must complete all continuing education as would a full licensee as provided in Part 5 of these rules.

[16.66.4.9 NMAC – N, __/__/20]

16.66.4.10 EXPIRED LICENSES:

A. Former licensees may reactivate an expired license within ninety (90) days of expiration. A licensee who fails to reactivate an expired license within ninety (90) days of expiration must, to obtain licensure, reapply as a new applicant for licensure.

B. For the purposes of this rule, expired licenses include those that have expired after being placed on inactive status by the former licensee.

[16.66.4.10 NMAC – N, __/__/20]

16.66.4.11 REACTIVATION OF EXPIRED OR INACTIVE LICENSES: Former licensees may reactivate an expired or inactive license within the deadlines provided in these rules. A former licensee seeking the reactivation of an expired or inactive license shall provide to the board in accordance with the deadlines specified in these rules:

A. A completed renewal application;

B. Payment of the non-refundable renewal fee in full as provided in Part 2;

C. Payment of the expired license reactivation fee in full as provided in Part 2;

D. Proof of completion of all required continuing education;

E. Provision to the board of all information necessary for the board to complete a state and national criminal background check.

[16.66.4.11 NMAC – N, __/__/20]

HISTORY OF 16.66.4 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 5 CONTINUING EDUCATION

16.66.5.1 ISSUING AGENCY: New Mexico home inspectors board.

[16.66.5.1 NMAC – N, __/__/20]

16.66.5.2 SCOPE: The provisions in Part 5 of Chapter 66 apply to all applicants for home inspector licenses, and home inspector licensees.

[16.66.5.2 NMAC – N, __/__/20]

16.66.5.3 STATUTORY AUTHORITY: Part 5 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.5.3 NMAC – N, __/__/20]

16.66.5.4 DURATION: Permanent.
[16.66.5.4 NMAC – N, __/__/20]

16.66.5.5 EFFECTIVE DATE: To be determined.
[16.66.5.5 NMAC – N, __/__/20]

16.66.5.6 OBJECTIVE: The objective of Part 5 of Chapter 66 is to set forth provisions governing continuing education requirements.
[16.66.5.6 NMAC – N, __/__/20]

16.66.5.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.5.7 NMAC – N, __/__/20]

16.66.5.8 CONTINUING EDUCATION: As provided by the Home Inspector Licensing Act, all home inspectors shall be required to satisfy continuing education requirements in the interest of ensuring the highest quality professional services.

A. As a condition of license renewal, a home inspector licensee shall complete at least sixty (60) hours of board-approved continuing education instruction that is related to the practice of home inspection during each three-year license period as outlined in 16.66.4.8 NMAC. This includes licensees holding initial licenses.

B. At least six (6) hours of continuing education instruction during each three-year license period must be in ethics.

C. A licensee may take continuing education instruction online.

D. Initial licenses of a duration of less than three years: Those licensees possessing initial licenses of a duration of one (1) or two (2) years shall complete a pro-rated amount of continuing education as follows:

(1) For licensees possessing an initial one (1) year license, twenty (20) hours of board-approved continuing education instruction that is related to the practice of home inspection, including at least two (2) hours of ethics;

(2) For licensees possessing an initial two (2) year license, forty (40) hours of board-approved continuing education instruction that is related to the practice of home inspection, including at least four (4) hours of ethics.

[16.66.5.8 NMAC – N, __/__/20]

16.66.5.9 APPROVAL OF CONTINUING EDUCATION HOURS

A. The Board shall automatically accept any educational course towards a licensee's continuing education requirements if the course satisfies one of the following criteria:

(1) The course is approved or accepted by another governmental state home inspector licensing authority;

(2) The course is approved by the United States Department of Education or the New Mexico Department of Education; or

(3) The course is certified or approved by any society, institute, council, or association of home inspectors.

B. A course that does not satisfy the criteria set forth in subsection A of this section may still be accepted by the board through the following process:

(1) A continuing education course may be submitted to the board for approval, by either the course instructor or the licensee, along with the following documentation:

(a) Course description, objectives, and goals;

(b) Course syllabus, including the number of educational hours, detailed timeline, provisions for make-up work, required text, and reading resources, instructional materials and handouts, requirements for successful completion and method of evaluation; and

(c) Documentation as to the course instructor's qualifications, background, and expertise.

(2) Any continuing education course submitted to the board for approval shall be reviewed, along with its supporting documentation, by the board's continuing education committee, which will make a non-binding recommendation to the board as to whether to approve or disapprove the course. The board shall vote on approval of the course, either as part of its consent agenda or otherwise, at its next regularly-scheduled meeting. In the event that the continuing education committee recommends the disapproval of a course, this information shall be conveyed to the course instructor, who may request in writing the opportunity to be heard at the next regularly-scheduled board meeting. Where the instructor has made a request to be heard and the board votes to deny the application, the board will issue a final written decision no later than 15 business days following the board's meeting.

(3) The board, and its application committee, shall consider the following criteria in determining whether to approve a continuing education course:

(a) Whether the content of the course is related to the practice of home inspection;

(b) Whether the instructor is qualified to teach the course; and

(c) Whether the instructor has violated the Home Inspector Licensing Act, the board's rules, or any criminal laws that are substantially related to the practice of home inspection or a failure to pay child support.

[16.66.5.9 NMAC – N, __/__/20]

16.66.5.10 CONTINUING EDUCATION AUDITS: The board shall audit ten percent of renewal applications each year, selected anonymously and at random, to verify completion of continuing education. If the licensee is audited, proof of participation in or presentation of continuing education activity must be submitted along with a renewal form.

A. If a notice of audit is received with the license renewal notice, the licensee must submit evidence of continuing education hours earned during the current renewal cycle to the board as required in the Home Inspector Licensing Act and the board's rules.

B. If the licensee is not audited, the licensee must, as a condition of renewal, attest to the completion of the required hours of continuing education. The licensee shall, throughout the period of each license, retain all documentation of continuing education attendance for the previous cycle of licensure.

C. The board may audit any licensee's continuing education attendance upon notification to the licensee.

[16.66.5.10 NMAC – N, __/__/20]

HISTORY OF 16.66.5 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 6 CODE OF ETHICS

16.66.6.1 ISSUING AGENCY: New Mexico home inspectors board.

[16.66.6.1 NMAC – N, __/__/20]

16.66.6.2 SCOPE: The provisions in Part 6 of Chapter 66 apply to all applicants for home inspector licenses and home inspector licensees.

[16.66.6.2 NMAC – N, __/__/20]

16.66.6.3 STATUTORY AUTHORITY: Part 6 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).

[16.66.6.3 NMAC – N, __/__/20]

16.66.6.4 DURATION: Permanent.

[16.66.6.4 NMAC – N, ___/___/20]

16.66.6.5 EFFECTIVE DATE: To be determined.

[16.66.6.5 NMAC – N, ___/___/20]

16.66.6.6 OBJECTIVE: The objective of Part 6 of Chapter 66 is to set forth a code of ethics governing the professional obligations of all home inspector licensees.

[16.66.6.6 NMAC – N, ___/___/20]

16.66.6.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.

[16.66.6.7 NMAC – N, ___/___/20]

16.66.6.8 CODE OF ETHICS: All licensed home inspectors in New Mexico shall abide at all times by the Code of Ethics contained in this Part.

A. This Code of Ethics rests on the fundamental principles of integrity, honesty, and objectivity. All provisions contained herein shall be interpreted at all times in the light of these principles which govern the New Mexico home inspection industry.

B. All licensees shall comply with this Code of Ethics, shall avoid association with any enterprise whose practices violate this Code of Ethics, and shall strive to uphold, maintain, and improve the integrity, reputation, and practice of home inspection.

[16.66.6.8 NMAC – N, ___/___/20]

16.66.6.9 CONFLICTS OF INTEREST: A licensee shall avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity. To that end, a licensee shall not:

A. Inspect a property for compensation in which the licensee has, or expects to have, a financial interest;

B. Inspect a property under a contingent arrangement whereby any compensation or future referral is dependent on reported findings or on the sale of the property;

C. Directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements;

D. Receive compensation for an inspection from more than one party unless the client consents in writing to the compensation arrangement;

E. Accept compensation, directly or indirectly, for recommending contractors, services, or products to clients or other parties having an interest in an inspected property; or

F. Perform, or offer to perform, for an additional fee any repair to a structure on which the home inspector or the home inspector's company has prepared a report at any time during the twelve months immediately prior to the repair or offer to repair.

[16.66.6.9 NMAC – N, ___/___/20]

16.66.6.10 GOOD FAITH: A licensee shall act in good faith toward each client and other interested parties.

A. A licensee shall perform services and express opinions based on genuine conviction and only within the licensee's areas of education, training, or experience.

B. A licensee shall be objective in reporting and not knowingly understating or overstating the significance of reported adverse conditions.

C. A licensee shall not release any information about an inspection or a client to a third party unless doing so is necessary to protect the safety of others, to comply with a law or statute, or unless the client has provided intelligent, informed, and written consent to the home inspector for the release of the information.

D. A licensee shall be honest in all business dealings and professional conduct.

[16.66.6.10 NMAC – N, ___/___/20]

16.66.6.11 CONFIDENCE IN THE PROFESSION: A licensee shall avoid activities that may harm the public, bring disrepute upon the licensee, or reduce public confidence in the profession of home inspection.

A. A licensee shall comply with all applicable federal, state, and local laws and regulations, including but not limited to the Home Inspector Licensing Act.

B. Advertising, marketing, and promotion of a licensee's services or qualifications shall not be fraudulent, false, deceptive, or misleading.

C. A licensee shall report a violation of this Code of Ethics to the Board.
[16.66.6.11 NMAC – N, __/__/20]

HISTORY OF 16.66.6 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 7 STANDARDS OF PRACTICE

16.66.7.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.7.1 NMAC – N, __/__/20]

16.66.7.2 SCOPE: The provisions in Part 7 of Chapter 66 apply to all applicants for home inspector licenses and home inspector licensees.
[16.66.7.2 NMAC – N, __/__/20]

16.66.7.3 STATUTORY AUTHORITY: Part 7 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.7.3 NMAC – N, __/__/20]

16.66.7.4 DURATION: Permanent.
[16.66.7.4 NMAC – N, __/__/20]

16.66.7.5 EFFECTIVE DATE: To be determined.
[16.66.7.5 NMAC – N, __/__/20]

16.66.7.6 OBJECTIVE: The objective of Part 7 of Chapter 66 is to set forth minimum and uniform standards of practice governing all home inspector licensees.
[16.66.7.6 NMAC – N, __/__/20]

16.66.7.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.7.7 NMAC – N, __/__/20]

16.66.7.8 STANDARDS OF PRACTICE: This Part sets forth the minimum and uniform standards of practice applicable to all New Mexico home inspector licensees.
[16.66.7.8 NMAC – N, __/__/20]

16.66.7.9 HOME INSPECTIONS DO NOT DETERMINE CONFORMITY WITH STATE AND LOCAL BUILDING CODE REQUIREMENTS: A licensee shall not, as part of a home inspection, determine whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements. A home inspection report shall not contain a determination of whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements. **Violations of this rule are subject to disciplinary action of the Board and may result in disciplinary action by other appropriate New Mexico licensing agencies if the statements in the Home Inspection Report constitute violation of that agencies rules and regulations.**
[16.66.7.9 NMAC – N, __/__/20]

16.66.7.10 PRE-INSPECTION AGREEMENTS: Prior to the commencement of any home inspection, a licensee shall enter into a pre-inspection agreement with the client. Any pre-inspection agreement must contain, at a minimum, all of the following:

A. The date and time of the inspection;

- B. The name and license number of the licensee home inspector who will be conducting the home inspection;
- C. The compensation fee and terms of payment for services;
- D. A statement that the inspection shall be performed in accordance with the Board's rules and standards of practice;
- E. A statement summarizing the scope of work to be performed by the licensee, provided that this scope of work may be modified by subsequent written agreement executed by the licensee and client prior to commencement of the home inspection;
- F. The date upon which the licensee shall deliver the home inspection report to the client;
- G. The following statement, in its entirety and in all capital letters: "THE HOME INSPECTOR WILL NOT DETERMINE AND THE REPORT PROVIDED UPON COMPLETION OF THE HOME INSPECTION WILL NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS."

H. Pre-Inspection agreements cannot contain any statement limiting the liability of the Home Inspector at any amount lower than the minimum required Liability and E&O coverage determined in 16.66.9.9 and 16.66.9.10.

[16.66.7.10 NMAC – N, __/__/20]

16.66.7.11 HOME INSPECTIONS: The licensee shall, as part of any home inspection, inspect all of the readily accessible and permanently installed systems and components listed in 16.66.7.12 NMAC, 16.66.7.13 NMAC, 16.66.7.14 NMAC, 16.66.7.15 NMAC, 16.66.7.16 NMAC, 16.66.7.17 NMAC, 16.66.7.18 NMAC, 16.66.7.19 NMAC, 16.66.7.20 NMAC, 16.66.7.21 NMAC, 16.66.7.22 NMAC, and 16.66.7.23 NMAC.

(A) Note that this rule requires Home Inspections to be conducted by a Licensee and requires the report to be written by a Licensee except in instances where a parallel inspection is being conducted by a license candidate. Office staff may conduct scheduling and book-keeping functions without a license, but any person conducting an inspection or writing a report must be a licensee or do so under the supervision of a licensee. In all circumstances, the Licensee will be responsible for compliance with these rules and regulations.

(B) Recommendations: The decision to seek repair, seek further evaluation or obtain cost estimates for repair of any reported adverse condition observed and described in a home inspection report is left to the parties to the contract for the sale and purchase of the home. All repairs, evaluations and cost estimates should be provided by a qualified, and if required, licensed contractor and may include tests, measurements and adjustments outside of the scope of a normal home inspection and may lead to the discovery of additional adverse conditions which may have additional repair costs that may not have been obvious to the home inspector. Anyone engaged in construction, trades related contracting or making code determinations in New Mexico must be licensed by the appropriate state agency.

[16.66.7.11 NMAC – N, __/__/20]

16.66.7.12 SITE CHARACTERISTICS AND EXTERIOR

- (A) The licensee shall inspect:
 - (1) Wall cladding materials, flashing, and trim;
 - (2) Eaves, soffits, and fascia where accessible and observable from the ground level;
 - (3) Exterior doors and windows;
 - (4) Attached and adjacent decks, balconies, stairs, steps, stoops, stairways, and porches and the associated railings, guards, and handrails;
 - (5) Vegetation, grading, surface drainage, and retaining structures that, as determined by the licensee, adversely affect the building;
 - (6) Attached and adjacent walkways and exterior stoops, landings, and patios;
 - (7) Adjacent driveways and other paved, masonry, or hardscape areas;
 - (8) Attached portals and ramadas;
 - (9) Garages and carports.
- (B) In the home inspection report, the licensee shall describe at least the wall cladding.
- (C) The licensee is not required to inspect:

- accessories;
- (1) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal
- window and door flashing;
- (2) Items that are not visible or readily accessible from the ground, including
- (3) Fencing, privacy walls, and retaining walls;
- (4) Erosion control and other earth stabilization measures;
- encroachments, or easements;
- (5) Soil or geological conditions, site engineering, property boundaries,
- (6) Adequacy of retaining walls, sea walls, waterfront bulkhead, docks, and piers;
- (7) Ponds, fountains, or decorative water features;
- (8) Safety glazing;
- (9) Integrity of multiple-pane window glazing or thermal window seals;
- (10) Recreational facilities;
- (11) Outbuildings other than garages and carports;
- (12) Swimming pools and spas.

[16.66.7.12 NMAC – N, __/__/20]

16.66.7.13 STRUCTURAL COMPONENTS

- (A) The licensee shall inspect all structural components, including but not limited to foundation and framing.
- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Methods used to inspect basements, underfloor crawlspaces and attics;
 - (2) Foundation;
 - (3) Floor structures;
 - (4) Wall structures;
 - (5) Ceiling structures; and
 - (6) Roof structures.
- (C) The licensee is not required to:
 - (1) Provide engineering or architectural services or analysis;
 - (2) Offer an opinion about the adequacy of structural systems and components;
 - (3) Enter underfloor crawlspace areas that have less than twenty four (24) inches of vertical clearance between components and the ground or that have an access opening smaller than sixteen (16) inches by twenty four (24) inches;
 - (4) Enter attics or crawlspaces when access is obstructed or when entry could damage the property;
 - (5) Enter attics or crawlspaces when the licensee suspects dangerous or adverse situations;
 - (6) Traverse attic load-bearing components that are concealed by insulation or by other materials;
 - (7) Move insulation.

[16.66.7.13 NMAC – N, __/__/20]

16.66.7.14 ROOFING

- (A) The licensee shall inspect:
 - (1) Roofing materials;
 - (2) Roof drainage systems;
 - (3) Flashing;
 - (4) Skylights, chimneys, and roof penetrations.
- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Roof materials; and
 - (2) Methods used to examine the roof as well as any general area of the roof that was not examined and the reason the area was not examined.
- (C) The licensee is not required to:
 - (1) Perform a water test;
 - (2) Warrant or certify the roof or predict the service life expectancy;

- the roof surfaces;
- (3) Remove snow, ice, debris, or other conditions that prohibit the observation of
- similar attachments;
- (4) Inspect antennae, satellite dishes, lightning arresters, de-icing equipment, or
- (5) Confirm proper fastening or installation of any roof-covering material.
- [16.66.7.14 NMAC – N, ___/___/20]

16.66.7.15 PLUMBING

- (A) The licensee shall inspect:
- (1) Interior water supply and distribution systems, including fixtures and fixture trim components (faucets, valves, drain stops, shower arms and showerheads, flush handles, etc.);
- (2) Interior drain, waste, and venting systems, including fixtures;
- (3) Water heating equipment and hot water supply systems;
- (4) Vent systems, flues, and chimneys;
- (5) Fuel storage and fuel distribution systems; and
- (6) Sewage ejectors, sump pumps, and related piping.
- (B) In the home inspection report, the licensee shall describe at least the following:
- (1) Interior water supply, drain, waste, and vent piping materials;
- (2) Water heating equipment, including energy sources;
- (3) Location of main water supply shut-off valve; and
- (4) Location of main fuel supply shut-off valve.
- (C) The licensee is not required to inspect:
- (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
- (2) Sewage drain waste systems;
- (3) On-site (septic) waste disposal systems;
- (4) Wells, well pumps, and water storage related equipment;
- (5) On-site (well) water supply quantity and quality;
- (6) Water conditioning systems;
- (7) Solar, geothermal, and other renewable energy water heating systems;
- (8) Manual and automatic fire extinguishing and sprinkler systems;
- (9) Landscape irrigation systems;
- (10) Clothes-washing machine connections;
- (11) Refrigerator or ice maker water connections.
- (D) The licensee is not required to:
- (1) Light or ignite pilot flames;
- (2) Operate any shut-off or manual stop valves, except water closet flush valves and fixture valves;
- (3) Test shower pans, tub, and shower surrounds or enclosures for leakage or functional overflow protection;
- (4) Operate automatic safety controls;
- (5) Inspect or test for gas or fuel leaks or indications thereof.
- (E) The licensee is not required to determine:
- (1) Capacity, temperature, life expectancy, or adequacy of the water heater;
- (2) Adequacy of combustion air components;
- (3) Whether water supply and waste disposal systems are public or private;
- (4) Water supply with respect to flow rate, volume, pressure, temperature, quantity, and quality;
- (5) Effectiveness of anti-siphon devices.
- [16.66.7.15 NMAC – N, ___/___/20]

16.66.7.16 ELECTRICAL

- (A) The licensee shall inspect:
- (1) Service drop;
- (2) Service entrance conductors and cables;
- (3) Service equipment and main disconnects;
- (4) Service and system grounding;

(5) Interior Components of service distribution panelboards and secondary panelboards by removing the panelboards dead front cover. When, as determined by the licensee, primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners are readily accessible, the inspector will remove the dead front covers of such panelboards in order to examine readily accessible components installed on their interiors. Use of tools to remove dead front covers is specifically excluded when dead front covers or their fasteners are painted or otherwise sealed into place or when they cannot be removed with a standard, non-power-assisted slot head or Phillips head screwdriver or hex head nut driver;

- (6) Conductors (wiring);
- (7) Overcurrent protection devices;
- (8) Presence of labeling of overcurrent protection devices;
- (9) Ground fault circuit interrupter (“GFCI”) protection components;
- (10) Arc fault circuit interrupter (“AFCI”) protection components; and
- (11) A representative number of installed lighting fixtures, switches, and receptacles.

(B) In the home inspection report, the licensee shall describe at least the following:

- (1) Amperage and voltage rating of the service **if safe and practical to do so**.
- (2) Location of main service entry and distribution panelboards and the associated

disconnects;

- (3) Predominant branch circuit wiring methods;
- (4) Presence or absence of smoke detectors and alarms; and
- (5) Presence or absence of carbon monoxide detectors and alarms.

(C) The licensee is not required to inspect:

- (1) Remote control devices;
- (2) Low voltage wiring systems and components;
- (3) Ancillary wiring systems and components not a part of the primary electrical

power distribution system;

- (4) Private or emergency electrical supply systems;
- (5) Spark or lightning arrestors.

(D) The licensee is not required to:

- (1) Test overcurrent protection devices except ground fault and arc fault circuit
- (2) Determine the accuracy of the labeling of all overcurrent protection devices;
- (3) Measure amperage, voltage, and impedance;
- (4) Determine the age and type of smoke alarms and carbon monoxide alarms;
- (5) Test or determine the interconnectivity or effectiveness of smoke alarms and

carbon monoxide alarms;

(6) Insert any tool, probe, or testing device inside panels or dismantle any electrical device or control other than to remove the readily accessible dead front covers or distribution panelboards;

(7) Remove the covers of junction, fixture, receptacle, or switch boxes unless specifically required by this standard.

[16.66.7.16 NMAC – N, ___/___/20]

16.66.7.17 HEATING

(A) The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

(B) The licensee shall inspect:

(1) Permanently installed heating equipment and distribution systems, using normal operating controls; and

(2) Vent systems, flues, and chimneys.

(C) In the home inspection report, the licensee shall describe at least the following:

- (1) Energy sources; and
- (2) Heating systems.

(D) The licensee is not required to inspect:

- (1) Interior of vent systems, flues, and chimneys that are not readily accessible;
- (2) Heat exchangers;
- (3) Humidifiers and dehumidifiers;
- (4) Electric air cleaning and sanitizing devices;

- (5) Portable heating equipment;
 - (6) Heating systems using ground-source, water-source, solar, and renewable energy technologies;
 - (7) Heat-recovery and similar whole-house mechanical ventilation systems;
 - (8) Fuel tanks or underground or concealed fuel supply systems.
 - (E) The licensee is not required to:
 - (1) Light or ignite pilot flames and burners;
 - (2) Operate automatic safety controls.
 - (F) The licensee is not required to determine:
 - (1) Uniformity, temperature, flow, balance, distribution, size, capacity, British thermal unit (“BTU”), or supply adequacy of the heating system;
 - (2) Adequacy of combustion air components.
- [16.66.7.17 NMAC – N, ___/___/20]

16.66.7.18 COOLING AND AIR CONDITIONING

- (A) The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
 - (B) The licensee shall inspect central and permanently installed cooling equipment and distribution systems, using normal operating controls.
 - (C) In the home inspection report, the licensee shall describe at least the following:
 - (1) Energy sources; and
 - (2) Cooling systems.
 - (D) The licensee is not required to:
 - (1) Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
 - (2) Operate automatic safety controls;
 - (3) Inspect electric air cleaning and sanitizing devices;
 - (4) Inspect cooling units that are not permanently installed or that are installed in windows;
 - (5) Inspect cooling systems using ground-source, water-source, solar, and renewable energy technologies;
 - (6) Determine the uniformity, temperature, flow, balance, distribution, size, capacity, BTU, or supply adequacy of the cooling system.
- [16.66.7.18 NMAC – N, ___/___/20]

16.66.7.19 INTERIORS

- (A) The licensee shall inspect:
 - (1) Walls, ceilings, and floors;
 - (2) Steps, stairways, balconies, and the associated railings, guards, and handrails;
 - (3) Countertops and a representative number of permanently installed cabinets; and
 - (4) A representative number of doors and windows.
- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Absence of performing emergency escape and rescue openings in all sleeping rooms;
 - (2) Observed indications of active water penetration on building components; and
 - (3) Observed indications of active or abnormal condensation on building components.
- (C) The licensee is not required to inspect:
 - (1) Safety glazing;
 - (2) Coatings on and the hermetic seals between panes of window glass;
 - (3) Security bar release and opening mechanisms;
 - (4) Paint, wallpaper and other finish treatments on the interior walls, ceilings, and floors;
 - (5) Floor coverings or carpeting;
 - (6) Draperies, blinds, or other window treatments; and
 - (7) Recreational equipment or facilities.

(D) The licensee is not required to move personal items, furniture, equipment, or plant life that obstructs access or visibility.
[16.66.7.19 NMAC – N, ___/___/20]

16.66.7.20 GARAGES

(A) The licensee shall inspect:

- (1) Walls and ceilings adjoining living space;
- (2) Doors entering living space from the garage;
- (3) Presence of burners, burner ignition devices, or heating elements permanently installed in the garage;
- (4) Presence of vehicle barrier when heating or water heating units are in the path of the vehicle;
- (5) Scuttle access to attics, including pull-down stairs inside the garage;
- (6) Garage vehicle door;
- (7) Vehicle door automatic operator and safety features present.

(B) In the home inspection report, the licensee shall describe at least the following:

- (1) Damage, unsealed penetrations, and openings to walls and ceilings adjoining living spaces;
- (2) Presence of heating or cooling supply or return ductwork inside the garage space; and
- (3) Vehicle door operation.

(C) The licensee is not required to:

- (1) Verify or certify automatic operator remote control operation;
- (2) Verify or certify the proper operation of any pressure-activated auto-reverse or related safety feature of a garage door;
- (3) Inspect or operate equipment housed in the garage, except as otherwise noted;
- (4) Move personal items, furniture, or equipment which obstructs access or visibility; and
- (5) **Inspect or operate** burners, burner ignition devices, or heating elements, switches, and thermostats that are not a minimum of eighteen (18) inches above the lowest garage floor elevation, unless the unit is listed for garage floor installation.

[16.66.7.20 NMAC – N, ___/___/20]

16.66.7.21 INSULATION AND VENTILATION

(A) The licensee shall inspect:

- (1) Insulation and vapor retarders in unfinished spaces;
- (2) Ventilation of unfinished spaces, including attics, enclosed rafter spaces, crawlspaces, and foundation areas; and
- (3) Kitchen, bathroom, laundry, and similar exhaust systems **when these components are visible and accessible.**

(B) In the home inspection report, the licensee shall describe at least the following:

- (1) Insulation and vapor retarder in unfinished spaces;
- (2) Ventilation of unfinished spaces; and
- (3) Absence of insulation in unfinished spaces at conditioned surfaces.

(C) The licensee is not required to:

- (1) Disturb insulation;
- (2) Determine the adequacy of ventilation;
- (3) Report on concealed insulation, vapor retarders, or venting equipment which is integral with household appliances.

[16.66.7.21 NMAC – N, ___/___/20]

16.66.7.22 FIREPLACES AND FUEL BURNING APPLIANCES

(A) The licensee shall inspect:

- (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
- (2) Fuel-burning accessories installed in fireplaces; and
- (3) Chimneys and vent systems.

- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
 - (2) Fuel-burning accessories installed in fireplaces;
 - (3) Presence or lack of a smoke detector in same room of fuel-burning fireplaces, stoves, or fireplace inserts; and
 - (4) Presence or lack of a carbon monoxide detector in same room of fuel-burning fireplaces, stoves, and fireplace inserts.
- (C) The licensee is not required to inspect:
 - (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
 - (2) Fire screens and doors;
 - (3) Seals and gaskets;
 - (4) Mantles and fireplace surrounds;
 - (5) Combustion air components;
 - (6) Heat distribution assists (gravity feeds and fan assisted);
 - (7) Automatic fuel feed devices;
 - (8) Fuel-burning fireplaces and appliances located outside the inspected structures.
- (D) The licensee is not required to:
 - (1) Ignite pilot flames;
 - (2) Ignite or extinguish fires;
 - (3) Determine the adequacy of drafts or draft characteristics;
 - (4) Move fireplace inserts, stoves, or firebox contents.

[16.66.7.22 NMAC – N, ___/___/20]

16.66.7.23 BUILT-IN APPLIANCES

- (A) The licensee shall inspect:
 - (1) Kitchen, using normal operating controls:
 - (a) Dishwashers through a cycle of the licensee's choosing;
 - (b) Ovens, ranges, and surface cooking appliances;
 - (c) Trash compactors;
 - (d) Food waste grinders;
 - (e) Permanently installed kitchen ventilation equipment; and
 - (f) Permanently installed microwave oven.
 - (2) Laundry:
 - (a) Dryer hookup energy sources; and
 - (b) Dryer ventilation or exhaust system.
- (B) In the home inspection report, the licensee shall describe at least the permanently installed appliances that the licensee did not operate and the reason why the appliance was not operated.
- (C) The licensee is not required to inspect:
 - (1) Installed and free-standing kitchen and laundry appliances that are not listed in subsection (A) of this rule;
 - (2) Appliances in use or appliances on which personal items are located;
 - (3) Appliance thermostats, including their calibration, adequacy of heating elements, self-cleaning oven cycles, indicator lights, door seals, timers, clocks, timed features, and other specialized features of the appliance;
 - (4) Microwave oven heating function or microwave leakage;
 - (5) Refrigerators, ice makers, or freezers;
 - (6) Laundry washers with respect to operation or performance;
 - (7) Laundry dryers with respect to operation or performance;
 - (8) Central vacuum systems;
 - (9) Clocks, timers, self-cleaning oven functions, or thermostats for calibration or automatic characteristics of operation;
 - (10) Any system, component, or appliance that does not respond to normal user controls;
 - (11) Any system, component, or appliance that requires use of special codes, keys, combinations, or devices;
 - (12) Elevators or stairlifts.

- (D) The licensee is not required to:
 - (1) Remove personal items in or on the appliance;
 - (2) Operate or confirm the operation of every control and feature of an inspected

appliance.

[16.66.7.23 NMAC – N, ___/___/20]

16.66.7.24 LIMITATIONS AND EXCLUSIONS

- (A) General limitations:

- (1) The requirements, obligations, and standards in this Part apply to residential buildings with four or fewer dwelling units and their attached and detached garages and carports.

- (2) As part of a particular home inspection, licensees are not required to perform actions or make determinations or recommendations beyond those identified in this Part.

- (3) Home inspections performed by licensees are not expected to be technically exhaustive.

- (4) Home inspections performed by licensees are not required to identify or report on concealed, latent, or intermittent conditions.

- (B) In general, the licensee is not required to inspect:

- (1) Underground items including, but not limited to, lawn irrigation systems or underground storage tanks and other underground indications of their presence, whether abandoned or active;

- (2) Items that are not permanently installed;

- (3) Permanently installed decorative items;

- (4) Items in areas that the licensee does not enter, as provided in this Part;

- (5) Detached structures other than garages and carports;

- (6) Common elements and common areas in multi-unit housing, such as condominium properties and cooperative housing;

- (7) All occurrence of multiple similar components, provided that the licensee may be required to inspect one such component;

- (8) Outdoor cooking appliances.

- (C) In general, the licensee is not required to:

- (1) Ignite or extinguish fires, pilot lights, burners, and other open flames that require manual ignition;

- (2) Dismantle systems and components, except as required by this Part;

- (3) Operate any system or component which is shut down or otherwise inoperable;

- (4) Operate any system or component which does not respond to normal operating controls;

- (5) Operate shut-off valves and manual stop valves;

- (6) Reset, reprogram, or otherwise adjust devices, systems, and components affected by the home inspection required by this Part;

- (7) Probe surfaces that would be damaged or where no deterioration is visible or presumed to exist;

- (8) Use specialized tools;

- (9) Disturb insulation, move personal items, furniture, equipment, plant life, soil, snow, ice, or debris which obstructs access or visibility;

- (10) Enter areas that will, as determined by the licensee, likely be dangerous to the licensee or to other persons or likely to damage the property or its systems and components;

- (11) Enter any area or perform any procedure which may damage the property or its components or be dangerous to the licensee or other persons;

- (12) Enter under-floor crawlspaces and attics that are not readily accessible;

- (13) Identify and report cosmetic imperfections that do not affect a component's normally intended function or operation;

- (14) Describe or report on systems or components that are not included in this Part and that were not inspected;

- (15) Offer warranties or guarantees of any kind;

- (16) Offer or perform any engineering services;

- (17) Offer or perform any trade or professional service other than home inspection.

- (D) In general, the licensee is not required to determine:

- (1) **Compliance with local codes**, the legality of property and its present use, conditions of title, boundaries and easements, , ordinances or regulations and location in earthquake, flood, mining, or any other hazard zones;
- (2) Whether any permits were required or obtained for any work performed on the subject property;
- (3) Whether grandfathering applies to any condition in a system or component;
- (4) Condition of systems and components not readily accessible;
- (5) Strength, adequacy, effectiveness, and efficiency of systems and components;
- (6) Causes of adverse conditions observed and reported;
- (7) Methods, materials, and costs of corrections;
- (8) Future conditions, including but not limited to failure of systems and components;
- (9) The age of installation of any system, structure, or component of a building;
- (10) The remaining life expectancy of systems and components;
- (11) Whether items, materials, conditions, and components are subject to recall, controversy, litigation, product liability, and other adverse claims and conditions;
- (12) Operating costs of systems and components;
- (13) Acoustical properties of systems and components;
- (14) Presence of plants, animals, and other life forms and substances that may be hazardous or harmful to humans including, but not limited to, wood destroying organisms, molds, and mold-like substances;
- (15) Presence of environmental hazards including, but not limited to, allergens, toxins, carcinogens, electromagnetic radiation, noise, radioactive substances, and contaminants in building materials, soil, water, and air;
- (16) Effectiveness of permanently installed systems and methods used to control or remove suspected hazardous plants, animals, and environmental hazards;
- (17) Soil conditions relating to geotechnical or hydrologic specialties;
- (18) Advisability of purchasing of the property being inspected;
- (19) Insurability of the property;
- (20) Marketability or market value of the property;
- (21) Suitability of the property for specialized uses.

[16.66.7.24 NMAC – N, __/__/20]

16.66.7.25 INSPECTION REPORTS: Following any home inspection, the licensee shall provide the client with a written inspection report.

- (A) Inspection reports must state, at a minimum, the following:
 - (1) The systems and components of the home that, as determined by the licensee, are not performing their normally intended function or operation or are not consistent with generally established practices regarding the historically or conventionally applied and acknowledged methods of installation, assembly, operation or use;
 - (2) Recommendations as to the need to correct, observe, or check for further correction the adverse conditions reported pursuant to subsection (A) of this rule or any other items requiring further evaluation;
 - (3) Such reasoning and explanation as necessary to identify and clarify the nature of the adverse conditions reported pursuant to subsection (A) of this rule;
 - (4) The systems and components of the home designated for inspection under the Board’s rules which were present at the time of the home inspection but not inspected, along with the reasons for the lack of inspection;
 - (5) The following statement, in its entirety and in all capital letters: “THE HOME INSPECTOR DID NOT DETERMINE AND THIS REPORT DOES NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS.”
- (B) Although all pre-inspection agreements must state the date upon which the licensee shall deliver the home inspection report to the client, if the pre-inspection agreement does not set forth such a date, the home inspector shall provide the report to the client no later than five (5) days after the home inspection was performed.

[16.66.7.25 NMAC – N, __/__/20]

HISTORY OF 16.66.7 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 8 DISCIPLINARY PROCEEDINGS

16.66.8.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.8.1 NMAC – N, __/__/20]

16.66.8.2 SCOPE: The provisions in Part 8 of Chapter 66 apply to all applicants for home inspector licenses and home inspector licensees.
[16.66.8.2 NMAC – N, __/__/20]

16.66.8.3 STATUTORY AUTHORITY: Part 8 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.8.3 NMAC – N, __/__/20]

16.66.8.4 DURATION: Permanent.
[16.66.8.4 NMAC – N, __/__/20]

16.66.8.5 EFFECTIVE DATE: To be determined.
[16.66.8.5 NMAC – N, __/__/20]

16.66.8.6 OBJECTIVE: The objective of Part 8 of Chapter 66 is to establish the procedures for denying applications for licensure, processing complaints against licensees and applicants, reinstatement of suspended or revoked licenses, and taking disciplinary action against licensees.
[16.66.8.6 NMAC – N, __/__/20]

16.66.8.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.8.7 NMAC – N, __/__/20]

16.66.8.8 GROUNDS FOR DISCIPLINARY ACTION: The following are grounds for taking disciplinary action against licensees and unlicensed practitioners, and for denying licenses to applicants:

- A. Substantial misrepresentation;
- B. Violations of the Home Inspector Licensing Act or any rule of the board, including but not limited to the code of ethics and standards of practice as outlined in Parts 5 and 6 of these rules;
- C. Offered or delivered compensation, inducement, or reward to the owner of an inspected property or to the broker or the agent for the referral of any business to the home inspector or the home inspector's company;
- D. A license to perform home inspections revoked, suspended, denied, stipulated or otherwise limited in any state, jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts proscribed in Section 61-24D-11 of the Home Inspector Licensing Act;
- E. Failure to furnish the board, its investigators or its representatives with information requested by the board in the course of an official investigation;
- F. Performance or offer to perform for an additional fee any repair to a structure on which the home inspector or the home inspector's company has prepared a report at any time during the twelve months immediately prior to the repair or offer to repair, except that a home inspection company that is affiliated with or that retains a home inspector does not violate this paragraph if the home inspection company performs repairs pursuant to a claim made pursuant to the terms of a home inspection contract; or
- G. Failure to maintain errors and omissions insurance and professional liability insurance as required by the Home Inspector Licensing Act and the rules of the board.

[16.66.8.8 NMAC – N, __/__/20]

16.66.8.9 COMPLAINTS AND RESPONSES:

A. A complaint against a licensee or applicant may be filed with the board by any person, office, or organization. In order to be considered by the board, a complaint must be sworn and notarized. The complaint must also contain specific factual allegations of violations of either the Home Inspector Licensing Act or the board's rules.

B. Upon receipt of any complaint alleging that a licensee has violated the Home Inspector Licensing Act or the board's rules, board staff shall forward the complaint to the respective licensee and request a response within ten (10) business days of receipt. The licensee ("respondent") must provide a response to the board within ten (10) business days of receipt. A respondent's failure to respond to the complaint within this specified time frame shall be grounds for disciplinary action, up to and including revocation of the license at the discretion of the board.

C. The board administrator may authorize the issuance of an investigative subpoena to obtain documents or other evidence relevant to a disciplinary complaint.

D. Subject to applicable exceptions to confidentiality established by law, all complaints, responses, and other disciplinary and investigatory records are public records available for inspection and copying, pursuant to state law, irrespective of the final disposition of the underlying disciplinary complaint.

[16.66.8.9 NMAC – N, __/__/20]

16.66.8.10 REVIEW OF COMPLAINT: All complaints will, where practicable, be reviewed by the board's complaint committee.

A. Should the board, in its discretion, choose to utilize a complaint committee, the complaint committee shall be responsible for reviewing disciplinary complaints against licensees and applicants and making informal, non-binding recommendations to the board as to their disposition. The complaint committee shall not have any policymaking authority of any kind.

B. The board's complaint committee shall consist of no more than two (2) board members and no more than two (2) other volunteer members who are not members of the board, for a total of no more than four (4) members at any given time.

C. After completing its review of a complaint, the complaint committee shall either recommend that the board take disciplinary action or that it close the case. As part of any recommendation of disciplinary action, the complaint committee may also make recommendations as to the proper amount of discipline (i.e. letter of reprimand, fine, suspension, revocation, etc.), including discipline that might be obtained through a negotiated settlement agreement with the licensee, applicant, or unlicensed practitioner.

[16.66.8.10 NMAC – N, __/__/20]

16.66.8.11 HEARINGS AND DISCIPLINARY PROCEEDINGS:

A. All disciplinary proceedings conducted by the board shall fully conform to the provisions of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34 (1957, as amended through 2019).

B. In the event that the board seeks to proceed with formal disciplinary action and issue a notice of contemplated action pursuant to the Uniform Licensing Act, the board shall send a request to the litigation division of the New Mexico Office of the Attorney General, which shall, if it elects to do so, serve as the administrative prosecutor on behalf of the board.

C. If a respondent requests an evidentiary hearing in response to a notice of contemplated action, the board chair shall designate a hearing officer to preside over the hearing. Alternatively, at the discretion of the board chair or upon vote of the board, the entire board may preside over the hearing.

D. Any continuance of an evidentiary hearing requested or stipulated by a respondent shall only be considered by the hearing officer, or board chair if the hearing is conducted by the full board, if the respondent has knowingly, voluntarily, and intelligently signed a waiver of the applicable time limits set forth by the Uniform Licensing Act.

[16.66.8.11 NMAC – N, __/__/20]

16.66.8.12 SETTLEMENT AGREEMENTS: As a means of resolving disciplinary complaints against licensees, applicants, and unlicensed practitioners without the time and expense of formal hearings, settlement agreements are encouraged at any stage in the disciplinary process prior to the adjournment of the evidentiary hearing.

A. Prior to the board voting on a disciplinary complaint or the matter being referred to the Office of the Attorney General for administrative prosecution, the board staff may negotiate a settlement agreement with the respondent. However, the board itself must vote to approve the settlement agreement at an open meeting, and no settlement agreement is valid under any circumstances until the board so votes.

B. Prior to the issuance of a notice of contemplated action or the adjournment of an evidentiary hearing, the board's administrative prosecutor may negotiate a settlement agreement with the respondent. However, the board itself must vote to approve the settlement agreement at an open meeting, and no settlement agreement is valid under any circumstances until the board so votes.

C. Following the conclusion of an evidentiary hearing, no settlement agreement shall be considered by the board.

[16.66.8.12 NMAC – N, ___/___/20]

16.66.8.13 REINSTATEMENT OF SUSPENDED OR REVOKED LICENSES:

A. Reinstatement of Suspended Licenses: Licensees whose licenses have been suspended by the board may apply to reinstate those licenses in accordance with the terms of the suspension. Any licensee seeking reinstatement of a suspended license shall be required to provide to the board:

- (1) A completed board-issued application form;
- (2) Payment of the non-refundable renewal fee in full as provided in Part 2;
- (3) Payment of the non-refundable reinstatement fee in full as provided in Part 2;
- (4) Any evidence necessary to demonstrate that the licensee has satisfactorily

completed any terms of the licensee's suspension.

B. Reinstatement of Revoked Licenses: Former licensees whose licenses were revoked by the board may apply to reinstate those licenses no sooner than five (5) years following the date of the order of revocation, unless the former licensee's license was revoked pursuant to the Parental Responsibility Act, in which case the former licensee may apply for reinstatement immediately upon the name of the former licensee's removal from the certified list issued by the New Mexico department of human services. Any former licensee seeking reinstatement of a revoked license shall, pursuant to the terms of the Uniform Licensing Act, carry the burden of demonstrating to the board the former licensee's qualifications for licensure. The former licensee shall be required to provide to the board:

- (1) A completed board-issued application form;
- (2) Payment of the non-refundable renewal fee in full as provided in Part 2;
- (3) Payment of the non-refundable reinstatement fee in full as provided in Part 2;
- (4) A letter, affidavit, or other evidence necessary to demonstrate that the former

licensee will, in the future, comply with all of the provisions of the Home Inspector Licensing Act and the board's rules.

[16.66.8.13 NMAC – N, ___/___/20]

16.66.8.14 PARENTAL RESPONSIBILITY ACT: The authority of the board to issue a notice of contemplated action against any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978, 40-5A-1, et seq, as deficient in child support payments, and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the board. This section shall not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution.

[16.66.8.14 NMAC – N, ___/___/20]

HISTORY OF 16.66.8 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 66 HOME INSPECTOR LICENSING

PART 9 INSURANCE

16.66.9.1 ISSUING AGENCY: New Mexico home inspectors board.

[16.66.9.1 NMAC – N, ___/___/20]

16.66.9.2 SCOPE: The provisions in Part 9 of Chapter 66 apply to all applicants for home inspector licenses and home inspector licensees.
[16.66.9.2 NMAC – N, __/__/20]

16.66.9.3 STATUTORY AUTHORITY: Part 9 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.9.3 NMAC – N, __/__/20]

16.66.9.4 DURATION: Permanent.
[16.66.9.4 NMAC – N, __/__/20]

16.66.9.5 EFFECTIVE DATE: To be determined.
[16.66.9.5 NMAC – N, __/__/20]

16.66.9.6 OBJECTIVE: The objective of Part 9 of Chapter 66 is to establish the minimum terms and conditions of insurance coverage required of all home inspector licensees.
[16.66.9.6 NMAC – N, __/__/20]

16.66.9.7 DEFINITIONS
A. Refer to Definitions, 16.66.1.7 NMAC.
E. “Professional liability insurance” means general liability insurance.
[16.66.9.7 NMAC – N, __/__/20]

16.66.9.8 INSURANCE REQUIRED
A. Pursuant to Section 61-24D-12 of the Home Inspector Licensing Act, all licensees and their employers shall carry at all times errors and omissions insurance and professional liability insurance to cover all activities contemplated pursuant to the provisions of the Home Inspector Licensing Act.
B. Every applicant for a license and every licensee who applies for renewal of a license must, as a condition prerequisite to the issuance or renewal of the license, provide the board with satisfactory evidence (“proof”) that the applicant or licensee has errors and omissions insurance coverage and professional liability insurance coverage that meet the minimum terms and conditions required by this Part.
[16.66.9.8 NMAC – N, __/__/20]

16.66.9.9 ERRORS AND OMISSIONS INSURANCE
A. A licensee’s or applicant’s errors and omissions insurance policy shall be, at a minimum, in the amount of \$250,000 in the aggregate.
B. Every proof of an errors and omissions insurance policy shall stipulate that cancellation or nonrenewal of the policy shall not be effective until at least ten days’ notice of intention to cancel or not renew has been received in writing by the board.
[16.66.9.9 NMAC – N, __/__/20]

16.66.9.10 PROFESSIONAL LIABILITY INSURANCE
A. A licensee’s or applicant’s professional liability insurance policy shall be, at a minimum, in the amount of \$250,000.
B. The professional liability insurance policy must include coverage for the licensee's activities performed during the course of a home inspection on the premises of the home inspection.
C. The professional liability insurance policy must include coverage for both property damage and bodily injury.
D. Every proof of a professional liability insurance policy shall stipulate that cancellation or nonrenewal of the policy shall not be effective until at least ten days’ notice of intention to cancel or not renew has been received in writing by the board.
[16.66.9.10 NMAC – N, __/__/20]

16.66.9.11 GROUP INSURANCE POLICIES ESTABLISHED BY THE BOARD

A. The Board may, at its discretion, solicit sealed, competitive proposals from insurance carriers to provide a group errors and omissions insurance policy that complies with the terms and conditions established by this Part. The Board may approve one or more policies that comply with the board rules.

B. The Board may, at its discretion, solicit sealed, competitive proposals from insurance carriers to provide a professional liability insurance policy that complies with the terms and conditions established by this Part. The Board may approve one or more policies that comply with the board rules.

C. In the event that the Board approves a group insurance policy, licensees are required to neither purchase the group policy nor contract with the group policy provider.

[16.66.9.11 NMAC – N, ___/___/20]

HISTORY OF 16.66.8 NMAC

EXHIBIT B

Rules Committee Amendment Recommendations

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 1 GENERAL PROVISIONS

16.66.1.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.1.1 NMAC – N, __/__/20]

16.66.1.2 SCOPE: The provisions in Part 1 of Chapter 66 apply to all parts of Title 16, Chapter 66 and provide relevant information to licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in Chapter 66 of Title 16.
[16.66.1.2 NMAC – N, __/__/20]

16.66.1.3 STATUTORY AUTHORITY: Part 1 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.1.3 NMAC – N, __/__/20]

16.66.1.4 DURATION: Permanent.
[16.66.1.4 NMAC – N, __/__/20]

16.66.1.5 EFFECTIVE DATE: To be determined.
[16.66.1.5 NMAC – N, __/__/20]

16.66.1.6 OBJECTIVE: The objective of Part 1 of Chapter 66 is to set forth the provisions which apply to all of Chapter 66 of Title 16 and to define the terms and terminology related to home inspectors used through Chapter 66 of Title 16.
[16.66.1.6 NMAC – N, __/__/20]

16.61.1.7 DEFINITIONS: As used in this rule:

A. These rules adopt, as if stated herein, all of the definitions contained in NMSA 1978, Section 61-24D-2.

B. “Access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person. Its edges and fasteners are not painted in place. Access panels are limited to those panels within normal reach at human height or from a stepladder, and those which are not blocked by stored items, furniture, or building components;

C. “Activate” means the act of turning on, supplying power, or otherwise enabling systems, equipment, or devices to become active by normal operating controls;

D. “Adverse condition” means a condition which is producing, or which has the potential to produce, a detrimental effect on a system or component that either impairs the system or component’s normally intended function or operation or which is inconsistent with generally established practice(s) regarding the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use;

E. “Alarm” means a warning device that is either permanently installed or freestanding, including but not limited to smoke detectors and alarms, carbon-monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps, and smoke alarms;

F. “Appliance” means a household device powered by electricity or gas, but not including central heating, central cooling, or plumbing components;

G. “Architectural service” means any practice involving the art and science of building design for construction of any structure or grouping of structures, and the use of space within and surrounding the structures or the design, design development, preparation of construction contract documents, and administration of the construction contract;

H. “Automatic safety controls” means devices designed and installed to protect systems and components;

I. “Board” means the New Mexico Home Inspectors Board;

~~J. “Built-in appliance” means a permanently installed appliance such as a ceiling fan, dishwasher or trash compactor that requires a tool for disassembly or removal, but not including any freestanding appliances.~~ CRS: determined redundant - removed and covered by “Permanently Installed” see below

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- K. “Central air conditioning” means a system which uses ducts to distribute either or both cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room. This definition does not include systems or appliances that are plugged into an electrical convenience outlet;
- L. “Component” means a constituent element or part of a system;
- M. “Concealed, latent, or intermittent condition” means any condition affecting any system or component which occurs after the inspection or is intermittent or otherwise not reasonably detectable by a competent and professional home inspector for any reason during the inspection;
- N. “Condition” means the visible and conspicuous state of being of an object regarding its appearance, quality, or working order;
- O. “Cosmetic imperfection” means an irregularity or imperfection which does not affect a component’s normally intended function or operation, and which could but is not required to be repaired;
- P. “Crawlspace” means the area within the confines of the foundation and between the ground and the underside of the lowest floor’s structural components;

MD: add the definition and renumber – “DESCRIBE” – means to document in writing. MD: This is a key term in the proposed Standards of Practices.

- Q. “Dismantle” means the act of taking apart or removing any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and which would not otherwise be taken apart or removed by a homeowner in the course of normal household maintenance;
- R. “Engineering” means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus;
- S. “Engineering service” means any professional service or creative work requiring engineering education, training and experience, and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works and/or processes;
- T. “Foundation” means the base upon which a structure or wall rests, typically constituted by masonry, concrete, or stone, and typically located at least partially underground;
- U. “Function” means the action for which an item, component, or system is specially fitted or used, or for which an item, component, or system exists;
- V. “Functional” means the ability of an item, component, or system to perform its function;
- W. “Functional drainage” means the act or ability of a drain to empty in a reasonable amount of time without overflowing when another fixture is drained simultaneously;
- X. “Functional flow” means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously;
- Y. “Further evaluation” means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by a home inspection. Further evaluation may provide additional clarification, provide needed repairs, or discover additional adverse conditions that need modifications or repairs for the component or system to perform its normally intended function or operation;
- Z. “Generally established practice” means a practice of or pertaining to one or more of the following: the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use of residential systems and their related materials and components. Generally established practices may vary based on whether they were applicable at the time of construction or whether modifications to the property were made after the original construction;
- AA. “Grandfathering” means the practice by a jurisdictional building authority of exempting conditions, installations, methods, and materials which met applicable requirements at the time work was originally performed from having to be brought into conformance with later requirements;

MD: Add the definitions for HOME INSPECTION and HOME INSPECTOR from the Home Inspector Licensing act to the rules definitions list for ease of access.

“HOME INSPECTION” means a noninvasive, nondestructive examination by a person of the interior and exterior components of a residential real property, including the property’s structural components, foundation and roof, for the purposes of providing a professional written opinion regarding the site

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aspects and condition of the property and its carports, garages and reasonably accessible installed components. "Home inspection" includes the examination of the property's heating, cooling, plumbing and electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner.

MD: Additionally, include for clarification and continuity with SOP language:

"HOME INSPECTION" – is also the process by which the readily accessible systems and components of a home are examined in accordance with the NM Standard of Practice. (Note: Added for clarification and continuity with the NM SOP language)

MD & CRS: Add the definition for HOME INSPECTION REPORT

HOME INSPECTION REPORT: A written report describing the inspected condition of the home, at the time of inspection and does not guarantee or warrant future condition, efficiency, or life expectancy of systems or components. The report does not imply or document compliance with local codes, ordinances, or regulations. The report is written in accordance with NM HI Standard of Practice: Inspection Reports section.

"HOME INSPECTOR" means a person who performs home inspection for compensation;

MD: Also include for clarification – and who is issued a New Mexico home inspector's license.

MD: Add definition:

IDENTIFY – means to describe a specific system or component by its type and to distinguish it by characteristics such as general or specific material(s), energy source(s), etc. which differentiate that system of component from other similar systems and components. *MD: This is a key term in the proposed Standards of Practices.*

BB. "Inspected Property" means the readily accessible areas of the buildings, site, items, components and systems included in the Home Inspection;

CC. "Licensure by endorsement" means the process by which an individual applicant applies for a license as a home inspector in New Mexico on the basis of the applicant's pre-existing license in another jurisdiction;

DD. "Licensure by examination" means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant's education, training, and passage of the national home inspector examination (NHIE);

EE. "Licensure by experience and examination" means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant's previous work in New Mexico as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020, the applicant's performance of at least one hundred (100) home inspections for compensation in the twenty-four (24) months immediately preceding January 1, 2020, and the applicant's passage of a national home inspector examination, whether the NHIE or otherwise;

FF. "National home inspector examination" or "NHIE" means the examination offered, conducted, and proctored by the examination board of professional home inspectors (EBPHI);

GG. "Normal operating controls" means thermostats, switches, valves, and other devices intended by design and manufacture to be used by homeowners or occupants in the normal and regular day-to-day operation of systems or components;

HH. "Normally intended function or operation" means the customary or conventional purpose or use for which a system or component is installed and for which it is designed or intended by its manufacturer;

CRS: Add the statement for "NOT REQUIRED"

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“NOT REQUIRED”: For this home inspection standard, the use of this industry standard term indicates the licensee does not have to inspect; report; determine repairs or determine compliance with regulations. 1) Home inspection Standards of Practice are the *minimum* of what would be considered a complete home inspection. 2) An inspector based on experience, education *and within the parameters of any related state or local regulation* can offer additional services and state those in the pre-inspection agreement. 3) Using the term "not required" allows the inspector to further educate themselves and diversify their business for the marketplace.

II. “On-site water supply quality” means water quality based on the bacterial, chemical, mineral, and solids content of the water;

JJ. “On-site water supply quantity” means the rate of flow of water;

KK. “Permanently installed” means an item, system, or component designed or intended to remain where originally placed, not easily moved, and which is attached, connected, or set in place for use so as to render moving or removing the item, system, or component impossible without the use of tools or equipment; **CRS: Add** (Examples: furnace, water heater, dishwasher, waste disposal, ceiling fan)

CRS: Add

“PROCTORED EXAMINATION”: A Proctored Examination is a test taken under the supervision of testing staff. The proctor’s function is to ensure procedural integrity and security of the exam in a secure environment. Examination passage must be in writing and written by the organization or entity that administered the examination.

LL. “Professional liability insurance” means general liability insurance;

MD: Restore “QUALIFIED” definition.

“QUALIFIED” - means having the training, skills, knowledge, expertise, experience, competence and any special tools, or equipment necessary to address Adverse Conditions and Routine Maintenance conditions and, where applicable, holding all required licenses and meeting all applicable industry standards and all governmental and statutory requirements. **MD: This term was included in earlier draft versions and is key to the “adverse condition” definition and to the use of “Generally Established Practices”.**

MM. “Reactivation” means the process and board act of reactivating an inactive or expired license, thereby permitting the licensee to engage in the practice of home inspection;

NN. “Readily accessible” means visually observable and able to be examined without requiring destructive measures; without risk to the inspector or others; without risk of damage to any item of personal or real property; without requiring the inspector to move, remove, damage, or disturb any wall, floor, ceiling, or window coverings; or any interior or exterior claddings or finish treatments; to move, remove, damage, disturb, climb upon, climb over, or straddle any item of personal property; to move, remove, damage, or disturb any landscape elements; or to interrupt the business of occupants, and not requiring disassembly or the use of any special protective clothing or special tools or equipment;

OO. “Readily openable access panel” means a panel located within normal reach or from a 4-foot stepladder, and which is not blocked by stored items, furniture, or building components, provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person, and its edges and fasteners are not painted in place, but not including electrical panelboard enclosure dead front covers;

CRS Addition “RECOMMENDATIONS”: the decision to seek further evaluations for repair, or obtain cost estimates of the Adverse Condition observed and described in the inspection report is left to the parties to the contract for the sale or purchase of the home. All repairs, evaluations, and cost estimates should be by a qualified, and if required, a New Mexico licensed contractor and may include tests, measurements, and adjustments outside the scope of the normal home inspection and may lead to the discovery of additional Adverse Conditions, which may involve additional repair costs that may not have been obvious to the inspector.

CRS: Add clarification of the definition for Recreational Facilities per CID suggestion:

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PP. “Residential Recreational facilities” means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground and other similar equipment, and associated accessories **that are installed at the inspected property;**

QQ. “Reinstatement” means the process and board act of reinstating a suspended or revoked license, thereby permitting the licensee to engage in the practice of home inspection either with or without future conditions;

CRS: Change per Earl Greer and Jeff Gorum suggestion/discussion:

RR. ~~“Representative number” means, for multiple identical components such as windows and electric outlets, the inspection of one such component per room, and for multiple identical exterior components, the inspection of one such component on each side of the building for multiple similar exterior components;~~

“REPRESENTATIVE NUMBER” means the inspected quantity of all readily accessible identical components such as windows, electric switches and electric receptacles that serve as a typical or characteristic example of the item(s) or component(s) inspected. When the representative MD: one or a number of components or systems has identified “Adverse Conditions” the report should indicate further evaluation of all identical components by qualified personnel.

SS. “Roof drainage systems” means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off of a roof and away from a building;

TT. “Routine maintenance” means typical, regular, ongoing, and expected maintenance which is part of an ongoing and prudent overall property and building systems upkeep program;

UU. “Safety glazing” means tempered glass, laminated glass, or rigid plastic;

VV. “Shut down” means a piece of equipment whose safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, or a system that cannot be operated by the device or control that a homeowner should normally use to operate it;

WW. “Solid fuel heating device” means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces, whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices;

XX. “Structural component” means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads). For purposes of this definition, a dead load is the fixed weight of a structure or piece of equipment, such as a roof structure on bearing walls, and a live load is a moving variable weight added to the dead load or intrinsic weight of a structure;

YY. “System” means a permanently-installed group of interacting, interrelated, or interdependent components historically and conventionally designed and intended to perform one or more specific functions;

ZZ. “Technically exhaustive” means a comprehensive and detailed examination beyond the scope of a real estate home inspection that would involve or include, but would not be limited to: dismantling, specialized knowledge or training, special equipment, measurements, calculations, testing, research, analysis, or other means;

AAA. “Underfloor crawlspace” means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural;

BBB. “Wall cladding” means a protective or insulating layer fixed to the outside of a building such as aluminum, brick, EIFS, stone, stucco, vinyl, or wood;

CCC. “Wiring method” means the identification of electrical conductors or wires by their general type, such as nonmetallic sheathed cable, armored cable, and knob and tube.

[16.66.1.7 NMAC – N, __/__/20]

16.61.1.8 OFFICES: The office of the New Mexico home inspectors board will be located in Albuquerque, New Mexico.

[16.66.1.8 NMAC – N, __/__/20]

16.61.1.9 TELEPHONIC MEETING ATTENDANCE: A board member may participate in a board meeting by means of a conference telephone or similar communications equipment only when it is difficult or impossible for the board member to physically attend the meeting. A board member attending by means of conference telephone or similar communications equipment must attest in open session during the meeting that his or her in-person attendance was difficult or impossible.

[16.66.1.9 NMAC – N, __/__/20]

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16.61.1.10 ADVISORY COMMITTEES: To assist and advise the board in its functions and mission, the board may, at its discretion, utilize advisory committees consisting of board members, volunteers, or both. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind. The board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee. The committees the board may create and utilize include, but are not necessarily limited to, the following:

A. Rules Committee: The board may utilize a rules committee to study the board's rules and provide nonbinding recommendations as to future changes and improvements.

B. Complaint Committee: The board may utilize a complaint committee to review disciplinary complaints against licensees and unlicensed practitioners and provide recommendations as to the final disposition of those complaints.

C. Application Committee: The board may utilize an application committee to review applications for licensure and provide recommendations as to whether the board should grant or deny those applications;

D. Continuing Education Committee: The board may utilize a continuing education committee for the purpose of providing nonbinding recommendations as to whether to accept a proposed continuing education course towards licensees' continuing education requirements.

[16.66.1.10 NMAC – N, __/__/20]

16.61.1.11 LISTS AND STATEMENTS:

A. The board staff shall maintain a list of the names and addresses of all licensees.

B. The board staff shall maintain a list of all persons whose licenses have been suspended or revoked in that particular calendar year.

C. The board staff shall maintain a statement of all funds received and a statement of all disbursements.

[16.66.1.11 NMAC – N, __/__/20]

16.61.1.12 SIGNATURES: A record, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the Chair, Vice-Chair, or Board Administrator.

[16.66.1.12 NMAC – N, __/__/20]

16.61.1.13 RULE IMPLEMENTATION PERIOD:

A. Within six (6) months of the effective date of these rules, any individual engaged in the practice of home inspection in New Mexico shall be required to obtain a license issued by the board as a condition of engaging in the future practice of home inspection in New Mexico.

(1) On the date falling six (6) months after the effective date of these rules or on the date declared by the Board in the event of a state of emergency as provided in subsection (2) of this rule, whichever is later, any individual engaged in the unlicensed practice of home inspection in New Mexico shall be subject to disciplinary action by the board. The board may also, as it deems appropriate, request the attorney general or district attorney of the judicial district in which the person resides or in which the violation is occurring or has occurred to maintain an action in the name of the state to prosecute the unlicensed practitioner or to enjoin the act or practice.

(2) Extension of Implementation Period due to State of Emergency: In the event that the Governor declares a state of emergency due to the spread of an infectious disease that extends beyond the six (6) months provided for in this rule, the Board may vote at an open meeting to extend the rule implementation period beyond those initial six (6) months if, in the opinion of the Board, the state of emergency hinders prospective applicants from completing the necessary prerequisites to licensure. Any extension of the rule implementation period shall last no longer than thirty (30) days after the expiration of the state of emergency declared by the Governor.

C. Nothing in this rule permits any person engaged in the practice of home inspection, whether licensed or unlicensed, to violate the code of ethics or standards of conduct as adopted by the board, nor does it permit such a person to violate the Home Inspector Licensing Act. Any action in violation of these rules or the Home Inspector Licensing Act may be considered by the board as part of an individual's application for licensure.

[16.66.1.13 NMAC – N, __/__/20]

HISTORY OF 16.66.1 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 3 APPLICATIONS AND LICENSES

16.66.3.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.3.1 NMAC – N, __/__/20]

16.66.3.2 SCOPE: The provisions in Part 3 of Chapter 66 apply to all applicants for home inspector licenses, and home inspector licensees.
[16.66.3.2 NMAC – N, __/__/20]

16.66.3.3 STATUTORY AUTHORITY: Part 3 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.3.3 NMAC – N, __/__/20]

16.66.3.4 DURATION: Permanent.
[16.66.3.4 NMAC – N, __/__/20]

16.66.3.5 EFFECTIVE DATE: To be determined.
[16.66.3.5 NMAC – N, __/__/20]

16.66.3.6 OBJECTIVE: The objective of Part 3 of Chapter 66 is to set forth provisions governing applications for licensure as a home inspector and examinations.
[16.66.3.6 NMAC – N, __/__/20]

16.66.3.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.3.7 NMAC – N, __/__/20]

16.66.3.8 APPLICATION FOR LICENSURE BY MD – *Per Jeff Gorum for accuracy and clarification:*
TRAINING AND EXAMINATION

A. The board shall issue a license to an applicant for licensure by examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) Completion of at least eighty (80) hours of classroom training:
 - (a) The cumulative total of eighty (80) hours of classroom training must include all of the following subjects:

- (i) Site characteristics and exterior;
- (ii) Structural components;
- (iii) Roofing;
- (iv) Plumbing;
- (v) Electrical;
- (vi) Heating, cooling, and air conditioning;
- (vii) Interiors, appliances, and garages;
- (viii) Insulation and ventilation;
- (ix) Fireplaces and fuel burning appliances;
- (x) New Mexico standards of practice and code of ethics;
- (xi) Business practices, including New Mexico rules and

regulations, pre-inspection agreements, and report writing.

(b) All eighty (80) hours of classroom training must be obtained through an educational course that satisfies one of the following criteria:

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(i) The course is approved or accepted by another governmental state home inspector licensing authority;

(ii) The course is approved by the United States Department of Education or the New Mexico Department of Education; or

(iii) The course is designated as pre-licensing education and is certified or approved by any society, institute, council, or association of home inspectors.

(6) Passage of the national home inspector examination (NHIE);

(7) Completion of at least eighty (80) hours of field training or twenty-five (25) parallel home inspections, evidenced by documents including, but not necessarily limited to, a completed board-issued inspection log, pre-inspection agreements, notarized affidavits, and other similarly-reliable evidence. In the event that an applicant submits evidence of field training hours totaling less than eighty (80) hours, the remaining balance may be satisfied by parallel home inspections, for which the board will allocate up to 3.25 hours of credit for each parallel home inspection;

(8) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(9) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

B. For the purposes of this rule, parallel home inspections mean either:

(1) Home inspections conducted in New Mexico prior to the effective date of this rule; or

(2) Home inspections at which the applicant, for observational, experiential, and educational purposes, accompanied another home inspector who:

(i) Is legally engaged in the practice and profession of home inspection in the jurisdiction in which the home inspection is conducted;

(ii) Has at least two (2) years of experience in the profession of home inspection; and

(iii) Has previously completed at least one hundred (100) home inspections for compensation.

[16.66.3.8 NMAC – N, __/__/20]

16.66.3.9 APPLICATION FOR LICENSURE BY EXPERIENCE AND EXAMINATION

A. An individual is eligible for licensure by experience and examination if the individual satisfies both of the following criteria:

(1) The applicant worked as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020; and

(2) The applicant performed at least one hundred (100) home inspections for compensation in the twenty-four (24) months immediately preceding January 1, 2020.

B. The board shall issue a home inspector license to applicant for licensure by experience and examination if the applicant fulfills the following requirements and provides the following information and evidence:

(1) Completion of the board-issued application form;

(2) Payment of the non-refundable application fee in full as provided in Part 2;

(3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;

(4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;

(5) Passage of a national home inspector examination. For the purposes of this rule, the applicant must either have passed the national home inspector examination (NHIE), or have passed prior to the effective date of this rule a different national home inspector examination not the NHIE subject to the following limitations:

(i) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and

(ii) The examination must have been proctored and the applicant must provide evidence as to this requirement.

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

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(7) Provision to the board of sufficient documentation and evidence to establish the applicant's home inspector activities in the twenty-four (24) months immediately preceding January 1, 2020. Such documentation may include, but is not limited to, tax records, notarized affidavits from persons other than the applicant, pre-inspection agreements, and other similarly-reliable evidence of the applicant's home inspection activities in the twenty-four (24) months immediately preceding January 1, 2020.

C. For the purposes of this rule, the phrase "worked as a home inspector in each of the twenty-four (24) months immediately preceding January 1, 2020" means having personally conducted any business activity directly associated with the profession of home inspection but is not limited to having conducted an actual home inspection. To qualify for licensure by experience and examination, an individual does not need to have personally conducted a home inspection in each of the twenty-four (24) months immediately preceding January 1, 2020, if that individual conducted another business activity directly associated with the profession of home inspection during each of the twenty-four (24) months.

[16.66.3.9 NMAC – N, ___/___/20]

16.66.3.10 APPLICATION FOR LICENSURE BY CREDENTIALS

A. An applicant who holds a license in good standing to practice as a home inspector in another state may be granted a license by virtue of the applicant's credentials if the applicant's resident state license requirements are the same as or similar to the requirements set forth in the Home Inspector Licensing Act as determined by the board.

B. An applicant applying for licensure on the basis of the applicant's credentials as described in subsection A of this rule shall be required to provide to the board:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) A certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state;

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

C. Pursuant to the Home Inspector Licensing Act, the board may negotiate agreements with other states or licensing jurisdictions to allow for reciprocity regarding licensure. A license granted pursuant to a reciprocity agreement shall be issued upon:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least eighteen (18) years of age and a legal resident of the United States;
- (5) The applicant's provision to the board of a certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state.

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

[16.66.3.10 NMAC – N, ___/___/20]

16.66.3.11 EXAMINATIONS

A. Licensure by examination: All applicants for licensure by examination must either pass the national home inspector examination (NHIE) following the date of application for licensure with the Board or have previously passed the national home inspector examination (NHIE) prior to the date of the applicant's application for licensure.

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B. Licensure by experience and examination: All applicants for licensure by experience and examination must either:

(1) Pass after applying for licensure or have passed prior to application the *MD per Jeff Gorum* National Home Inspector Examination (NHIE); or

(2) Have passed prior to the effective date of this rule a national home inspector examination, including but not limited to the NHIE, ~~prior to the date of the applicant's application for licensure~~ *MD – per Eric Thorn, provides clarification. A* national home inspector examination not the NHIE taken previously is acceptable subject to the following limitations:

(i) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and

(ii) The examination must have been proctored and the applicant must provide evidence as to this requirement.

C. Licensure by credentials: Applicants for licensure by licensure by credentials are not required to provide the Board with evidence as to prior examination passage. However, the Board will consider whether the applicant's prior licensing jurisdiction requires the passage of a national examination in determining whether the prior licensing jurisdiction's standards are substantially equivalent to those in New Mexico.

D. It is the applicant's responsibility to make all arrangements with the examination board of professional home inspectors (EBPHI) to take the NHIE.

E. The applicant shall send the applicant's examination score to the Board, provided that the examination score must be in a document originally written by the organization or entity that administered the examination.

F. Any applicant who fails the NHIE may retake the exam at the next available opportunity.
[16.66.3.11 NMAC – N, ___/___/20]

16.66.3.12 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, CHILDREN, AND RECENT VETERANS

A. Pursuant to Section 61-1-34 of the Uniform Licensing Act, any individual who is a military service member, spouse, or child, or who is a recent veteran having received an honorable discharge or separation from military service within the three years immediately preceding the date of the individual's application, is entitled to expedited licensure as provided herein.

B. Such an individual eligible for expedited licensure shall submit:

(1) An application for licensure on a form provided by the Regulation and Licensing Department;

(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, whose licensure standards are substantially equivalent to those set forth in these rules and the Home Inspector Licensing Act;

(3) Proof of honorable discharge, military identification card, proof of marriage for spousal status, or proof of the individual's parentage so as to qualify for an expedited license pursuant to Section 61-1-34 of the Uniform Licensing Act; and

(4) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

C. An individual eligible for expedited licensure shall not be required to pay an application fee or an initial three-year license fee.

[16.66.3.12 NMAC – N, ___/___/20]

16.66.3.13 INITIAL LICENSE LENGTH (RULE IN EFFECT UNTIL DECEMBER 31, 2021)

A. A new license issued pursuant to these rules shall be valid for no more than three (3) years. Until the close of business on December 31, 2021, initial license expiration dates shall be staggered and initial licenses shall be issued for durations of one (1), two (2), or three (3) years for the purposes of ensuring an orderly expiration period and the continuity of professional home inspector services in New Mexico. The durations of licenses shall be determined at random by Board staff. Each new license shall expire either after one (1), two (2), or three (3) years.

B. Following the expiration of each initial license, the licensee shall be issued a license for a duration of three (3) years.

C. This rule shall automatically, without further rulemaking action on the part of the Board, expire as of the close of business on December 31, 2021.

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[16.66.3.13 NMAC – N, ___/___/20]

16.66.3.14 LICENSURE PROCEDURE

A. Upon receipt of a completed application, including all required documentation and fees, the Board's application committee, should the Board choose in its discretion to utilize such a committee, may provide a non-binding and purely advisory recommendation as to whether the Board should grant or deny the application.

B. No license may be issued until a quorum of the Board has voted at an open meeting to issue the license to the applicant.

C. No license may be issued until the applicant has paid the non-refundable, but potentially prorated as provided in these rules, initial license fee in full.

[16.66.3.14 NMAC – N, ___/___/20]

HISTORY OF 16.66.3 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 7 STANDARDS OF PRACTICE

16.66.7.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.7.1 NMAC – N, __/__/20]

16.66.7.2 SCOPE: The provisions in Part 7 of Chapter 66 apply to all applicants for home inspector licenses and home inspector licensees.
[16.66.7.2 NMAC – N, __/__/20]

16.66.7.3 STATUTORY AUTHORITY: Part 7 of Chapter 66 is promulgated pursuant to the Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019).
[16.66.7.3 NMAC – N, __/__/20]

16.66.7.4 DURATION: Permanent.
[16.66.7.4 NMAC – N, __/__/20]

16.66.7.5 EFFECTIVE DATE: To be determined.
[16.66.7.5 NMAC – N, __/__/20]

16.66.7.6 OBJECTIVE: The objective of Part 7 of Chapter 66 is to set forth minimum and uniform standards of practice governing all home inspector licensees.
[16.66.7.6 NMAC – N, __/__/20]

16.66.7.7 DEFINITIONS: Refer to Definitions, 16.66.1.7
NMAC.[16.66.7.7 NMAC – N, __/__/20]

16.66.7.8 **STANDARDS OF PRACTICE:** This Part sets forth the minimum and uniform standards of practice applicable to all New Mexico home inspector licensees.
[16.66.7.8 NMAC -N, __/__/20]

16.66.7.9 HOME INSPECTIONS DO NOT DETERMINE CONFORMITY WITH STATE AND LOCAL BUILDING CODE REQUIREMENTS: A licensee shall not, as part of a home inspection, determine whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements. A home inspection report shall not contain a determination of whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements. *Per Jeff Gorum: Licensees violating this rule are subject to disciplinary action of the Board and may incur disciplinary action by other New Mexico Jurisdictions Having Authority when statements in a Home Inspection Report violate their rules and regulations. John Kreinekamp and Rules Group determined as redundant due to similar statement in part 1.*

16.66.7.8 PRE-INSPECTION AGREEMENTS: Prior to the commencement of any home inspection, a licensee shall enter into a pre-inspection agreement with the client. Any pre-inspection agreement must contain, at a minimum, all of the following:

- A. The date and time of the inspection;
- B. The name and license number of the licensee home inspector who will be conducting the home inspection;
- C. The compensation fee and terms of payment for services;
- D. A statement that the inspection shall be performed in accordance with the Board's rules and standards of practice;
- E. A statement summarizing the scope of work to be performed by the licensee, provided that this scope of work may be modified by subsequent written agreement executed by the licensee and client prior to commencement of the home inspection;
- F. The date upon which the licensee shall deliver the home inspection report to the client;
- G. The following statement, in its entirety and in all capital letters: "THE HOME INSPECTOR WILL NOT DETERMINE AND THE REPORT PROVIDED UPON COMPLETION OF THE HOME INSPECTION WILL NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR

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COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS.”

[16.66.7.8 NMAC – N, __/__/20] ~~Jeff G: Violations of this rule may be subject to disciplinary action by the New Mexico home inspectors board. –MD –see 16.66.7.9 above~~

16.66.7.9 INSPECTION REPORTS: Following any home inspection, the licensee shall provide the client with a written inspection report.

(A) Inspection reports must state, at a minimum, the following:

MD per Jeff G suggestions - Reordered (1) The systems and components of the home designated for inspection under the Board’s rules which were present at the time of the home inspection but not inspected, along with the reasons for the lack of inspection;

(2) The systems and components of the home that, as determined by the licensee, are not performing their normally intended function or operation or are not consistent with generally established practices regarding the historically or conventionally applied and acknowledged methods of installation, assembly, operation or use;

(3) Recommendations as to the need to correct, observe, or check for further correction the adverse conditions reported pursuant to subsection (A) of this rule or any other items requiring further evaluation;

(4) Such reasoning and explanation as necessary to identify and clarify the nature of the adverse conditions reported pursuant to subsection (A) of this rule;

(5) The following statement, in its entirety and in all capital letters: “THE HOME INSPECTOR DID NOT DETERMINE AND THIS REPORT DOES NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS.”

(B) Although all pre-inspection agreements must state the date upon which the licensee shall deliver the home inspection report to the client, if the pre-inspection agreement does not set forth such a date, the home inspector shall provide the report to the client no later than five (5) days after the home inspection was performed.

[16.66.7.9 NMAC – N, __/__/20]

16.66.7.10 HOME INSPECTIONS: The licensee shall, as part of any home inspection, inspect all of the readily accessible and permanently installed systems and components listed in 16.66.7.11 NMAC, 16.66.7.12 NMAC, 16.66.7.13 NMAC, 16.66.7.14 NMAC, 16.66.7.15 NMAC, 16.66.7.16 NMAC, 16.66.7.17 NMAC, 16.66.7.18 NMAC, 16.66.7.19 NMAC, 16.66.7.20 NMAC, 16.66.7.21 NMAC, and 16.66.7.22 NMAC.

[16.66.7.10 NMAC – N, __/__/20]

MD Per J Gorum – for consideration

~~(A) Note that this rule requires Home Inspections to be conducted by a Licensee and requires the report to be written by a Licensee except in instances where a parallel inspection is being conducted by a license candidate. Office staff may conduct scheduling and book keeping functions without a license, but any person conducting an inspection or writing a report must be a licensee or do so under the supervision of a licensee. In all circumstances, the Licensee will be responsible for compliance with these rules and regulations. MD Rules group stated not needed, covered by part 1 language.~~

~~(B) Recommendations: The decision to seek repair, seek further evaluation or obtain cost estimates for repair of any reported adverse condition observed and described in a home inspection report is left to the parties to the contract for the sale and purchase of the home. All repairs, evaluations and cost estimates should be provided by a qualified, and if required, licensed contractor and may include tests, measurements and adjustments outside of the scope of a normal home inspection and may lead to the discovery of additional adverse conditions which may have additional repair costs that may not have been obvious to the home inspector. Anyone engaged in construction, trades related contracting or making code determinations in New Mexico must be licensed by the appropriate state agency. – MD Rules Group suggests use as definition in Part 1- See in definitions~~

16.66.7.11 SITE CHARACTERISTICS AND EXTERIOR

- (A) The licensee shall inspect:
- (1) Wall cladding materials, flashing, and trim;
 - (2) Eaves, soffits, and fascia where accessible and observable from the ground level;
 - (3) Exterior doors and windows;
 - (4) Attached and adjacent decks, balconies, stairs, steps, stoops, stairways, and porches and the associated railings, guards, and handrails;
 - (5) Vegetation, grading, surface drainage, and retaining structures that, as determined by the licensee, adversely affect the building;
 - (6) Attached and adjacent walkways and exterior stoops, landings, and patios;
 - (7) Adjacent driveways and other paved, masonry, or hardscape areas;
 - (8) Attached portals and ramadas;
 - (9) Garages and carports.
- (B) In the home inspection report, the licensee shall describe at least the wall cladding.
- (C) The licensee is not required to inspect:
- (1) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
 - (2) Items that are not visible or readily accessible from the ground, including window and door flashing;
 - (3) Fencing, privacy walls, and retaining walls;
 - (4) Erosion control and other earth stabilization measures;
 - (5) Soil or geological conditions, site engineering, property boundaries, encroachments, or easements;
 - (6) Adequacy of retaining walls, sea walls, waterfront bulkhead, docks, and piers;
 - (7) Ponds, fountains, or decorative water features;
 - (8) Safety glazing;
 - (9) Integrity of multiple-pane window glazing or thermal window seals;
 - (10) Recreational facilities;
 - (11) Outbuildings other than garages and carports;
 - (12) Swimming pools and spas.

[16.66.7.11 NMAC – N, ___/___/20]

16.66.7.12 STRUCTURAL COMPONENTS

- (A) The licensee shall inspect all structural components, including but not limited to foundation and framing.
- (B) In the home inspection report, the licensee shall describe at least the following:
- (1) Methods used to inspect basements, underfloor crawlspaces and attics;
 - (2) Foundation;
 - (3) Floor structures;
 - (4) Wall structures;

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- (5) Ceiling structures; and
 - (6) Roof structures.
 - (C) The licensee is not required to:
 - (1) Provide engineering or architectural services or analysis;
 - (2) Offer an opinion about the adequacy of structural systems and components;
 - (3) Enter underfloor crawlspace areas that have less than twenty four (24) inches of vertical clearance between components and the ground or that have an access opening smaller than sixteen (16) inches by twenty four (24) inches;
 - (4) Enter attics or crawlspaces when access is obstructed or when entry could damage the property;
 - (5) Enter attics or crawlspaces when the licensee suspects dangerous or adverse situations;
 - (6) Traverse attic load-bearing components that are concealed by insulation or by other materials;
 - (7) Move insulation.
- [16.66.7.12 NMAC – N, ___/___/20]

16.66.7.13 ROOFING

- (A) The licensee shall inspect:
 - (1) Roofing materials;
 - (2) Roof drainage systems;
 - (3) Flashing;
 - (4) Skylights, chimneys, and roof penetrations.
 - (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Roof materials; and
 - (2) Methods used to examine the roof as well as any general area of the roof that was not examined and the reason the area was not examined.
 - (C) The licensee is not required to:
 - (1) Perform a water test;
 - (2) Warrant or certify the roof or predict the service life expectancy;
 - (3) Remove snow, ice, debris, or other conditions that prohibit the observation of the roof surfaces;
 - (4) Inspect antennae, satellite dishes, lightning arresters, de-icing equipment, or similar attachments;
 - (5) Confirm proper fastening or installation of any roof-covering material.
- [16.66.7.13 NMAC – N, ___/___/20]

16.66.7.14 PLUMBING

- (A) The licensee shall inspect:
 - (1) Interior water supply and distribution systems, including fixtures and fixture trim components (faucets, valves, drain stops, shower arms and showerheads, flush handles, etc.);
 - (2) Interior drain, waste, and venting systems, including fixtures;
 - (3) Water heating equipment and hot water supply systems;
 - (4) Vent systems, flues, and chimneys;
 - (5) Fuel storage and fuel distribution systems; and
 - (6) Sewage ejectors, sump pumps, and related piping.
- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Interior water supply, drain, waste, and vent piping materials;
 - (2) Water heating equipment, including energy sources;
 - (3) Location of main water supply shut-off valve; and
 - (4) Location of main fuel supply shut-off valve.
- (C) The licensee is not required to inspect:
 - (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
 - (2) Sewage drain waste systems;
 - (3) On-site (septic) waste disposal systems;
 - (4) Wells, well pumps, and water storage related equipment;
 - (5) On-site (well) water supply quantity and quality;
 - (6) Water conditioning systems;

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- (7) Solar, geothermal, and other renewable energy water heating systems;
 - (8) Manual and automatic fire extinguishing and sprinkler systems;
 - (9) Landscape irrigation systems;
 - (10) Clothes-washing machine connections;
 - (11) Refrigerator or ice maker water connections.
- (D) The licensee is not required to:
- (1) Light or ignite pilot flames;
 - (2) Operate any shut-off or manual stop valves, except water closet flush valves and fixture valves;
 - (3) Test shower pans, tub, and shower surrounds or enclosures for leakage or functional overflow protection;
 - (4) Operate automatic safety controls;
 - (5) Inspect or test for gas or fuel leaks or indications thereof.
- (E) The licensee is not required to determine:
- (1) Capacity, temperature, life expectancy, or adequacy of the water heater;
 - (2) Adequacy of combustion air components;
 - (3) Whether water supply and waste disposal systems are public or private;
 - (4) Water supply with respect to flow rate, volume, pressure, temperature, quantity, and quality;
 - (5) Effectiveness of anti-siphon devices.
- [16.66.7.14 NMAC – N, ___/___/20]

CRS & MD per suggestions for clarifications, additional detail and concern for Home Inspector safety as noted by CID – please see all edits in red for “ELECTRICAL” below

16.66.7.15 ELECTRICAL

- (A) ~~The licensee shall inspect:~~
- ~~(1) Service drop;~~
 - ~~(2) Service entrance conductors and cables;~~
 - ~~(3) Service equipment and main disconnects;~~
 - ~~(4) Service and system grounding;~~
 - ~~(5) Interior Components of service distribution panelboards and secondary panelboards by removing the panelboards dead front cover. When, as determined by the licensee, primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners are readily accessible, the inspector will remove the dead front covers of such panelboards in order to examine readily accessible components installed on their interiors. Use of tools to remove dead front covers is specifically excluded when dead front covers or their fasteners are painted or otherwise sealed into place or when they cannot be removed with a standard, non-power-assisted slot head or Phillips head screwdriver or hex head nut driver;~~
 - ~~(6) Conductors (wiring);~~
 - ~~(7) Overcurrent protection devices;~~
 - ~~(8) Presence of labeling of overcurrent protection devices;~~
 - ~~(9) Ground fault circuit interrupter (“GFCI”) protection components;~~
 - ~~(10) Arc fault circuit interrupter (“AFCI”) protection components; and~~
 - ~~(11) A representative number of installed lighting fixtures, switches, and receptacles.~~
- (B) ~~In the home inspection report, the licensee shall describe at least the following:~~
- ~~(1) Amperage and voltage rating of the service;~~
 - ~~(2) Location of main service entry and distribution panelboards and the associated disconnects;~~
 - ~~(3) Predominant branch circuit wiring methods;~~
 - ~~(4) Presence or absence of smoke detectors and alarms; and~~
 - ~~(5) Presence or absence of carbon monoxide detectors and alarms.~~
- (C) ~~The licensee is not required to inspect:~~
- ~~(1) Remote control devices;~~
 - ~~(2) Low voltage wiring systems and components;~~
 - ~~(3) Ancillary wiring systems and components not a part of the primary electrical power distribution system;~~
 - ~~(4) Private or emergency electrical supply systems;~~
 - ~~(5) Spark or lightning arrestors.~~

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~~(D) The licensee is not required to:~~
~~(1) Test overcurrent protection devices except ground fault and arc fault circuit interrupters;~~
~~(2) Determine the accuracy of the labeling of all overcurrent protection devices;~~
~~(3) Measure amperage, voltage, and impedance;~~
~~(4) Determine the age and type of smoke alarms and carbon monoxide alarms;~~
~~(5) Test or determine the interconnectivity or effectiveness of smoke alarms and carbon monoxide alarms;~~
~~(6) Insert any tool, probe, or testing device inside panels or dismantle any electrical device or control other than to remove the readily accessible dead front covers or distribution panelboards;~~
~~(7) Remove the covers of junction, fixture, receptacle, or switch boxes unless specifically required by this standard.~~

(A) **The licensee shall inspect:**

- (1) Service drop (**overhead**) or **Service lateral (underground)**;
- (2) Service entrance **conductors, cables, and raceways, service entrance conductors' insulation, drip loop, and vertical clearances from grade and roofs**;
- (3) Service equipment and main disconnects;
- (4) Service and system grounding;
- (5) Interior Components of service distribution panelboards and secondary panelboards by removing the panelboards dead front cover.

(5A) When, as determined by the licensee, primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners are readily accessible, the inspector will remove the dead front covers of such panelboards in order to examine readily accessible components installed on their interiors.

(5B) Use of tools to remove dead front covers is specifically excluded when dead front covers or their fasteners are painted or otherwise sealed into place or when they cannot be removed with a standard, non-power-assisted slot head or Phillips head screwdriver or hex head nut driver;

(5C) **Exception for Home Inspector Safety:** the Home Inspector is not required to remove the covers of the service and distribution panels when **HAZARDOUS CONDITIONS ARE PRESENT. CAUTION:** Before touching the fasteners and cover, the home inspector should use available voltage test tools to verify if the panel assembly, panel dead front, and fasteners have **live voltage conditions**. Example tools: Voltage sniffer; Neon bulb tester; three light tester or voltmeter.

- (6) Conductors (**wiring methods**);
- (7) Overcurrent protection devices;
- (8) Presence of labeling of overcurrent protection devices;
- (9) Ground fault circuit interrupter ("GFCI") protection ~~components~~ (**devices**);
- (10) Arc fault circuit interrupter ("AFCI") protection ~~components~~ (**devices**); and
- (11) A representative number of installed lighting fixtures, switches, and receptacles.
- (12) **The polarity and grounding of all readily accessible receptacles within six feet of interior plumbing fixtures, in the garage or carport, and on the exterior of inspected structures;**

(B) **In the home inspection report, the licensee shall describe at least the following:**

- (1) **Service drop; (location)(overhead or underground)**

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- (2) Amperage and voltage rating of the service;
 - (3) Service and system grounding and bonding (i.e. concrete encased, ground rod, equipotential cold-water metal pipe)**
 - (4) Location of main service entry and distribution panelboards and the associated disconnects;
 - (5) Predominant branch circuit wiring methods;
 - (6) Presence or absence of smoke detectors and alarms; and
 - (7) Presence or absence of carbon monoxide detectors and alarms.
 - (8) Presence or absence of Ground fault circuit interrupter (“GFCI”) protection devices**
 - (9) Presence or absence of Arc fault circuit interrupter (“AFCI”) protection devices**
 - (10) Any unused circuit-breaker panel opening that was not filled;**
 - (11) The presence of solid conductor aluminum branch-circuit wiring**
 - (12) Any tested receptacle in which power was not present, polarity was incorrect, the cover was not in place, the GFCI devices were not properly installed or did not operate properly, evidence of arcing or excessive heat, and where the receptacle was not grounded or was not secured to the wall; and**
 - (13) Wiring methods which are not consistent with GENERALLY ESTABLISHED PRACTICES (terminations, multiple tapping of hot and neutral conductors, insulation, over-stripping, securing and protection of conductors, bonding of components, etc.)**
 - (14) Condition of visible conductors and insulation (damaged scorched, burned, or melted insulation; nicked conductors; cut off strands of multiple strand conductors, anti-oxidant compound on aluminum conductors; etc.)**
 - (15) Corrosion on components**
 - (16) The presence of the following systems: Utility interactive system (i.e. solar, wind turbine, and electric vehicle charging systems).**
- (C) **The licensee is not required to inspect:**
- (1) Remote control devices;
 - (2) Low voltage wiring systems and components;
 - (3) Ancillary wiring systems and components not a part of the primary electrical power distribution system;
 - (4) Private or emergency electrical supply systems;
 - (5) Spark or lightning arrestors.
- (D) **The licensee is not required to:**
- (1) Operate electrical systems that are shut down;**
 - (2) Test **or operate** overcurrent protection devices except ground fault and arc fault circuit interrupters;
 - (3) Test or operate any overcurrent device or safety device in the electrical service panel or elsewhere that may adversely affect the personal property and / or activity of the resident;**
 - (4) Determine the accuracy of the labeling of all overcurrent protection devices;

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- (5) **Calculate or** Measure amperage, voltage, and impedance;
- (6) **Determine (present or future) service capacity amperage, voltage or the capacity of the electrical system; of the main service equipment, when not readily accessible;**
- (7) Determine the age and type of smoke alarms and carbon monoxide alarms;
- (8) Test, activate or determine the interconnectivity or effectiveness of smoke alarms and carbon monoxide alarms;
- (9) **Verify that smoke or CO (carbon monoxide) alarms are suitable for the hearing-impaired; or the interconnectivity of smoke alarms and CO alarms;**
- (10) Insert any tool, probe, or testing device inside panels or dismantle any electrical device or control other than to **remove the primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners when no HAZARD CONDITIONS EXIST and readily accessible;**
- (11) Remove the covers of junction, fixture, receptacle, or switch boxes unless specifically required by this standard;
- (12) **The home inspector is not required to remove electrical device covers when removal would damage or mar any painted surface and/or covering materials.**

[16.66.7.15 NMAC – N, __/__/20]

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16.66.7.16 HEATING

- (A) The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
- (B) The licensee shall inspect:
- (1) Permanently installed or heating equipment and distribution systems, using normal operating controls; and
 - (2) Vent systems, flues, and chimneys.
- (C) In the home inspection report, the licensee shall describe at least the following:
- (1) Energy sources; and
 - (2) Heating systems.
- (D) The licensee is not required to inspect:
- (1) Interior of vent systems, flues, and chimneys that are not readily accessible;
 - (2) Heat exchangers;
 - (3) Humidifiers and dehumidifiers;
 - (4) Electric air cleaning and sanitizing devices;
 - (5) Portable heating equipment;
 - (6) Heating systems using ground-source, water-source, solar, and renewable energy technologies;
 - (7) Heat-recovery and similar whole-house mechanical ventilation systems;
 - (8) Fuel tanks or underground or concealed fuel supply systems.
- (E) The licensee is not required to:
- (1) Light or ignite pilot flames and burners;
 - (2) Operate automatic safety controls.
- (F) The licensee is not required to determine:
- (1) Uniformity, temperature, flow, balance, distribution, size, capacity, British thermal unit (“BTU”), or supply adequacy of the heating system;
 - (2) Adequacy of combustion air components.

[16.66.7.16 NMAC – N, ___/___/20]

16.66.7.17 COOLING AND AIR CONDITIONING

- (A) The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
- (B) The licensee shall inspect central and permanently installed cooling equipment and distribution systems, using normal operating controls.
- (C) In the home inspection report, the licensee shall describe at least the following:
- (1) Energy sources; and
 - (2) Cooling systems.
- (D) The licensee is not required to:
- (1) Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
 - (2) Operate automatic safety controls;
 - (3) Inspect electric air cleaning and sanitizing devices;
 - (4) Inspect cooling units that are not permanently installed or that are installed in windows;
 - (5) Inspect cooling systems using ground-source, water-source, solar, and renewable energy technologies;
 - (6) Determine the uniformity, temperature, flow, balance, distribution, size, capacity, BTU, or supply adequacy of the cooling system.

[16.66.7.17 NMAC – N, ___/___/20]

16.66.7.18 INTERIORS

- (A) The licensee shall inspect:
- (1) Walls, ceilings, and floors;
 - (2) Steps, stairways, balconies, and the associated railings, guards, and handrails;
 - (3) Countertops and a representative number of permanently installed cabinets; and
 - (4) A representative number of doors and windows.
- (B) In the home inspection report, the licensee shall describe at least the following:

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- rooms;
- components.
- floors;
- (1) Absence of performing emergency escape and rescue openings in all sleeping rooms;
 - (2) Observed indications of active water penetration on building components; and
 - (3) Observed indications of active or abnormal condensation on building components.
- (C) The licensee is not required to inspect:
- (1) Safety glazing;
 - (2) Coatings on and the hermetic seals between panes of window glass;
 - (3) Security bar release and opening mechanisms;
 - (4) Paint, wallpaper and other finish treatments on the interior walls, ceilings, and floors;
 - (5) Floor coverings or carpeting;
 - (6) Draperies, blinds, or other window treatments; and
 - (7) Recreational equipment or facilities.
- (D) The licensee is not required to move personal items, furniture, equipment, or plant life that obstructs access or visibility.
- [16.66.7.18 NMAC – N, ___/___/20]

16.66.7.19 GARAGES

- installed in the garage;
- the vehicle;
- related safety feature of a garage door;
- visibility.
- [16.66.7.19 NMAC – N, ___/___/20]
- (A) The licensee shall inspect:
 - (1) Walls and ceilings adjoining living space;
 - (2) Doors entering living space from the garage;
 - (3) Presence of burners, burner ignition devices, or heating elements permanently installed in the garage;
 - (4) Presence of vehicle barrier when heating or water heating units are in the path of the vehicle;
 - (5) Scuttle access to attics, including pull-down stairs inside the garage;
 - (6) Garage vehicle door;
 - (7) Vehicle door automatic operator and safety features present.
 - (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Damage, unsealed penetrations, and openings to walls and ceilings adjoining living spaces;
 - (2) Presence of heating or cooling supply or return ductwork inside the garage space;
 - (3) **Burners, burner ignition devices, or heating elements, switches, and thermostats that may generate a glow, spark or flame capable of igniting flammable vapors that are installed less than 18 in. (460mm) above the floor above the garage floor, unless the unit is listed for garage floor installation; and**
 - (4) Vehicle door operation.
 - (C) The licensee is not required to:
 - (1) Verify or certify automatic operator remote control operation;
 - (2) Verify or certify the proper operation of any pressure-activated auto-reverse or related safety feature of a garage door;
 - (3) Inspect or operate equipment housed in the garage, except as otherwise noted;
 - (4) Move personal items, furniture, or equipment which obstructs access or visibility.

16.66.7.20 INSULATION AND VENTILATION

- crawlspaces, and foundation areas; and
- (A) The licensee shall inspect:
 - (1) Insulation and vapor retarders in unfinished spaces;
 - (2) Ventilation of unfinished spaces, including attics, enclosed rafter spaces, crawlspaces, and foundation areas; and
 - (3) Kitchen, bathroom, laundry, and similar exhaust systems
 - (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Insulation and vapor retarder in unfinished spaces;
 - (2) Ventilation of unfinished spaces; and

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- (3) Absence of insulation in unfinished spaces at conditioned surfaces.
- (C) The licensee is not required to:
 - (1) Disturb insulation;
 - (2) Determine the adequacy of ventilation;
 - (3) Report on concealed insulation, vapor retarders, or venting equipment which is

integral with household appliances.

[16.66.7.20 NMAC – N, ___/___/20]

16.66.7.21 FIREPLACES AND FUEL BURNING APPLIANCES

- (A) The licensee shall inspect:
 - (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
 - (2) Fuel-burning accessories installed in fireplaces; and
 - (3) Chimneys and vent systems.
- (B) In the home inspection report, the licensee shall describe at least the following:
 - (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
 - (2) Fuel-burning accessories installed in fireplaces;
 - (3) Presence or lack of a smoke detector in same room of fuel-burning fireplaces, stoves, or fireplace inserts; and
 - (4) Presence or lack of a carbon monoxide detector in same room of fuel-burning fireplaces, stoves, and fireplace inserts.
- (C) The licensee is not required to inspect:
 - (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
 - (2) Fire screens and doors;
 - (3) Seals and gaskets;
 - (4) Mantles and fireplace surrounds;
 - (5) Combustion air components;
 - (6) Heat distribution assists (gravity feeds and fan assisted);
 - (7) Automatic fuel feed devices;
 - (8) Fuel-burning fireplaces and appliances located outside the inspected structures.
- (D) The licensee is not required to:
 - (1) Ignite pilot flames;
 - (2) Ignite or extinguish fires;
 - (3) Determine the adequacy of drafts or draft characteristics;
 - (4) Move fireplace inserts, stoves, or firebox contents.

[16.66.7.21 NMAC – N, ___/___/20]

16.66.7.22 PERMANENTLY INSTALLED APPLIANCES

- (A) The licensee shall inspect:
 - (1) Kitchen, using normal operating controls:
 - (a) Dishwashers through a cycle of the licensee's choosing;
 - (b) Ovens, ranges, and surface cooking appliances;
 - (c) Trash compactors;
 - (d) Food waste grinders;
 - (e) Permanently installed appliance kitchen ventilation equipment; and
 - (f) Permanently installed appliance microwave oven.
 - (2) Laundry:
 - (a) Dryer hookup energy sources; and
 - (b) Dryer ventilation or exhaust system
- (B) In the home inspection report, the licensee shall describe at least the permanently installed appliances that the licensee did not operate and the reason why the appliance was not operated.
- (C) The licensee is not required to inspect:
 - (1) Installed and free-standing kitchen and laundry appliances that are not listed in subsection (A) of this rule;
 - (2) Appliances in use or appliances on which personal items are located;
 - (3) Appliance thermostats, including their calibration, adequacy of heating elements, self-cleaning oven cycles, indicator lights, door seals, timers, clocks, timed features, and other specialized features of the appliance;
 - (4) Microwave oven heating function or microwave leakage;

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- (5) Refrigerators, ice makers, or freezers;
 - (6) Laundry washers with respect to operation or performance;
 - (7) Laundry dryers with respect to operation or performance;
 - (8) Central vacuum systems;
 - (9) Clocks, timers, self-cleaning oven functions, or thermostats for calibration or automatic characteristics of operation;
 - (10) Any system, component, or appliance that does not respond to normal user controls;
 - (11) Any system, component, or appliance that requires use of special codes, keys, combinations, or devices;
 - (12) Elevators or stairlifts.
- (D) The licensee is not required to:
- (1) Remove personal items in or on the appliance;
 - (2) Operate or confirm the operation of every control and feature of an inspected appliance.

[16.66.7.22 NMAC – N, __/__/20]

16.66.7.23 LIMITATIONS AND EXCLUSIONS

- (A) General limitations:
- (1) The requirements, obligations, and standards in this Part apply to residential buildings with four or fewer dwelling units and their attached and detached garages and carports.
 - (2) As part of a particular home inspection, licensees are not required to perform actions or make determinations or recommendations beyond those identified in this Part.
 - (3) Home inspections performed by licensees are not expected to be technically exhaustive.
 - (4) Home inspections performed by licensees are not required to identify or report on concealed, latent, or intermittent conditions.
- (B) In general, the licensee is not required to inspect:
- (1) Underground items including, but not limited to, lawn irrigation systems or underground storage tanks and other underground indications of their presence, whether abandoned or active;
 - (2) Items that are not permanently installed;
 - (3) Permanently installed decorative items;
 - (4) Items in areas that the licensee does not enter, as provided in this Part;
 - (5) Detached structures other than garages and carports;
 - (6) Common elements and common areas in multi-unit housing, such as condominium properties and cooperative housing;
 - (7) All occurrence of multiple similar components, provided that the licensee may be required to inspect one such component;
 - (8) Outdoor cooking appliances.
- (C) In general, the licensee is not required to:
- (1) Ignite or extinguish fires, pilot lights, burners, and other open flames that require manual ignition;
 - (2) Dismantle systems and components, except as required by this Part;
 - (3) Operate any system or component which is shut down or otherwise inoperable;
 - (4) Operate any system or component which does not respond to normal operating controls;
 - (5) Operate shut-off valves and manual stop valves;
 - (6) Reset, reprogram, or otherwise adjust devices, systems, and components affected by the home inspection required by this Part;
 - (7) Probe surfaces that would be damaged or where no deterioration is visible or presumed to exist;
 - (8) Use specialized tools;
 - (9) Disturb insulation, move personal items, furniture, equipment, plant life, soil, snow, ice, or debris which obstructs access or visibility;
 - (10) Enter areas that will, as determined by the licensee, likely be dangerous to the licensee or to other persons or likely to damage the property or its systems and components;
 - (11) Enter any area or perform any procedure which may damage the property or its components or be dangerous to the licensee or other persons;

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- (12) Enter under-floor crawlspaces and attics that are not readily accessible;
 - (13) Identify and report cosmetic imperfections that do not affect a component's normally intended function or operation;
 - (14) Describe or report on systems or components that are not included in this Part and that were not inspected;
 - (15) Offer warranties or guarantees of any kind;
 - (16) Offer or perform any engineering services;
 - (17) Offer or perform any trade or professional service other than home inspection.
- (D) In general, the licensee is not required to determine:
- (1) ***MD: re-order per Jeff G - Compliance with local codes***, the legality of property and its present use, conditions of title, boundaries and easements, ordinances or regulations and location in earthquake, flood, mining, or any other hazard zones;
 - (2) Whether any permits were required or obtained for any work performed on the subject property;
 - (3) Whether grandfathering applies to any condition in a system or component;
 - (4) Condition of systems and components not readily accessible;
 - (5) Strength, adequacy, effectiveness, and efficiency of systems and components;
 - (6) Causes of adverse conditions observed and reported;
 - (7) Methods, materials, and costs of corrections;
 - (8) Future conditions, including but not limited to failure of systems and components;
 - (9) The age of installation of any system, structure, or component of a building;
 - (10) The remaining life expectancy of systems and components;
 - (11) Whether items, materials, conditions, and components are subject to recall, controversy, litigation, product liability, and other adverse claims and conditions;
 - (12) Operating costs of systems and components;
 - (13) Acoustical properties of systems and components;
 - (14) Presence of plants, animals, and other life forms and substances that may be hazardous or harmful to humans including, but not limited to, wood destroying organisms, molds, and mold-like substances;
 - (15) Presence of environmental hazards including, but not limited to, allergens, toxins, carcinogens, electromagnetic radiation, noise, radioactive substances, and contaminants in building materials, soil, water, and air;
 - (16) Effectiveness of permanently installed systems and methods used to control or remove suspected hazardous plants, animals, and environmental hazards;
 - (17) Soil conditions relating to geotechnical or hydrologic specialties;
 - (18) Advisability of purchasing of the property being inspected;
 - (19) Insurability of the property;
 - (20) Marketability or market value of the property;
 - (21) Suitability of the property for specialized uses.

[16.66.7.23 NMAC – N, ___/___/20]

HISTORY OF 16.66.7 NMAC