

This is an amendment to 14.12.1, amending Section 7, effective April 22, 2022.

14.12.1.7 DEFINITIONS: All words and terms defined in the Manufactured Housing Act have the same meaning in these rules.

A. Terms starting with the letter 'A' are defined as follows.

(1) "Act" means the Manufactured Housing Act. Chapter 60, Article 14, Section 4, NMSA, 1978 is incorporated herein and made a part of these rules.

(2) "Alternative permanent foundation systems" are defined as commercially packaged systems designed by a New Mexico licensed engineer for the purpose of classifying installations as permanent.

(3) "Anchoring" is defined as those systems approved by a DAPIA. Where no DAPIA approval exists a licensed professional engineer may design an anchoring system pursuant to the manufacturer's specifications.

(a) "Tie-down" is any device designed for the purpose of securing a manufactured home to the ground.

(b) "Ground anchor" is a listed screw auger.

B. Terms starting with the letter 'B' are defined as follows. [RESERVED]

C. Terms starting with the letter 'C' are defined as follows.

(1) "Commercial unit" means any structure designed and equipped for human occupancy for industrial, professional or commercial purposes.

(2) "Committee" means the manufactured housing committee.

(3) "Customer, consumer or homeowner". These words are used interchangeably throughout these rules, they are intended to be synonymous, and they mean the purchaser, homeowner or owner of a manufactured home, including an occupant of a manufactured home subsequent to installation.

D. Terms starting with the letter 'D' are defined as follows.

(1) "DAPIA" means design approval primary inspection agencies as the term is utilized in the H.U.D. regulation, which is included in the federal preemption, on manufactured homes, and inclusive of on-site installations.

(2) "Deliver" as it applies to Section 20, means a seller's obligation shall be accomplished when a seller has completed or stands ready, willing and able to physically transport and locate the home to a buyer as specified in the purchase agreement or buyer's order and (a) the weather is not an impediment and (b) the parties responsible for preparing the installation site have acted in good faith and acted according to all relevant statutes, codes and rules. If (a) or (b) are not met, then seller will have a reasonable time to deliver the home.

(3) "Director" means the director of the manufactured housing division.

(4) "Disqualifying criminal conviction" means a conviction for a crime that is job-related for the position in question and consistent with business necessity.

~~(4)~~ (5) "Division" means the manufactured housing division of the regulation and licensing department.

~~(5)~~ (6) "Down payment" means any payment, such as consideration, a deposit of remuneration, of less than the full purchase price of the home.

E. Terms starting with the letter 'E' are defined as follows. [RESERVED]

F. Terms starting with the letter 'F' are defined as follows. "Federal preemption" is defined as The National Manufactured Housing Construction and Safety Standards Act, Title VI, 42 U.S. Code as amended, including Section 604.(d) and The Manufactured Homes Procedural and Enforcement Regulations, Part 3282, including Section 32.82.11.

(1) Section 604(d) Title VI, 42 U.S. Code is incorporated herein and made a part of these rules, as follows: "no State or political subdivision of a State shall have any authority either to establish or to continue in effect, with respect any manufactured home covered, any standard regarding construction or safety applicable to the same which is not identical to the Federal manufactured home construction standard".

(2) Section 3282.11(e) is incorporated herein and made a part of these rules, as follows: "No state or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of congress. The test of whether a state rule or action is valid or must give way is whether the state rule can be enforced or the action taken without impairing the federal superintendence of the manufactured home industry as established by the act".

G. Terms starting with the letter 'G' are defined as follows.

(1) "Grade level" shall be defined as the finished grade around the exterior perimeter of the manufactured home; and, which shall slope away from the home to provide positive drainage consistent with the rules and regulations.

(2) "Ground level" shall be defined only as the average surface level exposed under the home.

H. Terms starting with the letter 'H' are defined as follows. "HUD" means the United States department of housing & urban development.

I. Terms starting with the letter 'I' are defined as follows. "Installation inspection permit" shall mean a document issued by the division that shall be used to request any inspection or re-inspection of a manufactured home permanent or non-permanent foundation system, manufactured home installation, utility connection or re-inspection request.

J. Terms starting with the letter 'J' are defined as follows. [RESERVED]

K. Terms starting with the letter 'K' are defined as follows. [RESERVED]

L. Terms starting with the letter 'L' are defined as follows.

(1) "License" means a license, registration, certificate of registration, certificate, or permit.

(2) "Licensing fee" means a fee charged at the time an application for a professional or occupational license or renewal is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include a fee for an inspection, or a fee charged for copies of documents, replacement licenses, examination fees, or other expenses related to a professional or occupational license.

~~[(1)]~~ (3) "Liquidated damages" means the sum provided in a contract that a party agrees to pay if it breaches the contract, which sum is based on the good-faith effort of the parties to estimate the actual damages likely to result from a breach of contract.

~~[(2)]~~ (4) "Listed materials" means equipment and materials included in a list published by a nationally recognized testing laboratory that maintain periodic inspections of production of listed equipment and materials and whose listing states either that the equipment and materials meet nationally recognized standards or have been tested and found suitable for use in a specific manner and has been approved for use in a manufacturer's installation manual or an approval in writing by the division's technical advisory council (TAC).

M. Terms starting with the letter 'M' are defined as follows.

(1) "Manufacturer II" means an enterprise whose primary business is the acquisition, restoration, renovation, or similar work and resale of distressed or damaged pre-owned manufactured housing units.

(2) "Military service member" has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

~~[(2)]~~ (3) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) preparation and construction of the foundation system;
- (b) installation of the support piers and earthquake resistant bracing system;
- (c) required connection to foundation system and support piers;
- (d) skirting;
- (e) connections to on-site utility terminals that are necessary for the normal

operation of the home; and

- (f) installation of a pressure relief valve when required.

~~[(3)]~~ (4) "Mudslide" means the general and temporary movement down a slope of a mass of rock or soil, artificial fill, or a combination of these materials, caused or precipitated by the accumulation of water on or under the grounds.

N. Terms starting with the letter 'N' are defined as follows.

(1) "Net listing agreement" is a prohibited employment contract in which a broker, or dealer acting as a broker, receives as a commission all monies in excess of the minimum sales price agreed upon by the broker or dealer and the listing owner.

(2) "Non-permanent foundation" shall be defined as various foundational support mechanisms or arrangements other than permanent foundation systems.

O. Terms starting with the letter 'O' are defined as follows.

(1) "One hundred year flood" means the level of flooding that will be equaled or exceeded once in one hundred (100) years and has a one percent chance of occurring each year, on the average as defined by the federal emergency management agency (F.E.M.A.).

(2) **“On-site utility terminal”** means the consumer’s load side of the on-site utility meter for gas and electric utilities, or the point of attachment or connection to the utility supplier’s distribution system, for water and sewer.

P. Terms starting with the letter ‘P’ are defined as follows.

(1) **“Perimeter enclosure”** is defined as any arrangement that encloses and provides weather protection to the volume beneath the principle structure. Perimeter enclosures shall not be load bearing unless engineered to be load bearing by a licensed engineer or the manufacturer. Permanent perimeter enclosures are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood or other approved materials) or other materials approved by the division.

(2) **“Perimeter marriage band”** is defined as the covering placed over the gap that exists between the exterior, at the unit’s floor level and the perimeter enclosure. The materials used shall be appropriate for the weather and designed and installed in a manner consistent with good construction and engineering standards.

(3) **“Permanent foundations”** are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood or other approved materials), and are required to be constructed on-site and shall have attachments points to anchor and stabilize the manufactured home. The design of the foundation shall be DAPIA approved or designed by a licensed professional engineer in accordance with the manufacturer’s specifications.

(4) **“Pre-owned home”** or **“pre-owned manufactured home”** means a manufactured home of which title has been issued to a consumer or a manufacturer’s statement of origin has been issued and a unit has been subsequently declared as real property, pursuant to New Mexico property tax laws.

(5) **“Prohibited sales notice”** means a printed notification, issued by the division, that a manufactured home may not be offered for sale because of violations of these rules.

Q. Terms starting with the letter ‘Q’ are defined as follows. [RESERVED]

R. Terms starting with the letter ‘R’ are defined as follows.

(1) **“Regulation”** means the rules of the manufactured housing division.

(2) **“Real estate”** means land, improvements, leaseholds and other interests in real property that are less than a fee simple ownership interest, whether tangible or intangible.

(3) **“Retailer”** is used interchangeably with the word “dealer” throughout these rules, these words are synonymous, and they mean “dealer” as defined pursuant to Subsection E of Section 60-14-2 NMSA 1978.

(4) **“Retail installment contract”** means the contract as defined in Subsection H of Section 56-1-1 NMSA 1978. The contract must conform to Section 56-1-2 NMSA 1978.

(a) Suggested examples of when a retail installment contract will be contemplated as part of the transaction: (a) chattel mortgage from a third party lender; (b) security agreement; (c) conditional sale contract; (d) contract in form of a bailment.

(b) Suggested examples of when a retail installment contract will not be contemplated as part of the transaction: (a) cash sale.

(5) **“Retaining walls”** are defined as a barrier with a minimum differential height of eighteen inches (18”), which retains a lateral load.

(6) **“Riser”** means that portion of the yardline, which protrudes through the grade level of the ground.

S. Terms starting with the letter ‘S’ are defined as follows. **“Superintendent”** means the superintendent of the regulation and licensing department.

T. Terms starting with the letter ‘T’ are defined as follows. [RESERVED]

U. Terms starting with the letter ‘U’ are defined as follows.

(1) **“Unavailability of the manufacturer’s installation manual”** shall mean the inability to obtain such manual after undertaking a reasonable and diligent effort to obtain the same prior to the installation of a home; and includes, but is not limited to, circumstances where the customer of a used home has lost or misplaced the manual, the manufacturer is no longer in business and manuals are unavailable, or no such manual was ever printed or delivered at the time of the manufacture of a home and a photocopy of the manual could not be obtained at the manufactured housing division.

(2) **“Utility”** means electric, gas, water or sewer services, but does not include refuse services.

(3) **“Utility supplier”** means any person, park owner, municipality or public utility that supplies electricity, water, liquefied petroleum gas, natural gas or sewer service to a manufactured home.

V. Terms starting with the letter 'V' are defined as follows. ~~[RESERVED]~~ "Veteran" means a person who has received an honorable discharge or separation from military service.

W. Terms starting with the letter 'W' are defined as follows. ~~[RESERVED]~~

X. Terms starting with the letter 'X' are defined as follows. ~~[RESERVED]~~

Y. Terms starting with the letter 'Y' are defined as follows. "Yardline" means a buried material providing utilities from the on-site utility terminal to the manufactured home.

Z. Terms starting with the letter 'Z' are defined as follows. ~~[RESERVED]~~
[14.12.1.7 NMAC - Rp, 14.12.2.7 NMAC, 12/1/2010; A, 4/22/2022]