

This is an amendment to 16.66.1 NMAC Sections 7, 9, and 13 effective 4/23/2024

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

A. Definitions beginning with the letter “A”:

(1) **“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.

(2) **“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.

(3) **“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.

(4) **“Ancillary services”** means a service or inspection provided by a licensee or other provider but beyond the scope of the Standards of Practice for Home Inspection provided in 16.66.7 NMAC including but not limited to Mold Inspection, Lead Paint Assessment, Commercial Building Inspection, Pool and Spa Inspection, Termite Inspection, and other Ancillary Services.

~~(4)~~ (5) **“Appliance”** means a permanently installed household device powered by electricity or gas, but not including central heating, central cooling, or plumbing components.

~~(5)~~ (6) **“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.

~~(6)~~ (7) **“Automatic safety controls”** means devices designed and installed to protect systems and components.

B. Definitions beginning with the letter “B”:

(1) **“Board”** means the New Mexico home inspectors board.

(2) **“Board approved examination”** means an examination that has been third-party accredited as complying with the prevailing standards of the *Standards for Educational and Psychological Testing* as published in 2014 by the American educational research association et. al.

(3) **“Business relationship”** means a former, current or prospective relationship between a person or a person’s licensed agent, a home inspection company and its clients, a home inspection company and the company providing ancillary services, and between a client and a company providing ancillary services. The business relationship is based upon a financial contract between a person and a consumer which is in force including those relationships in which the individual benefits by receiving a salary, royalty, intellectual property rights, consulting fee, honoraria, ownership interest (e.g., stocks, stock options or other ownership interest, excluding diversified mutual funds), or other financial benefit. A former relationship if it occurred within a 12-month time period of the contract, a current or prospective relationship shall be disclosed in writing to the client and the client must acknowledge in writing receipt and acceptance of the disclosure. The receipt and acceptance of the disclosure may be by electronic signature.

C. Definitions beginning with the letter “C”:

(1) **“Component”** means a constituent element or part of a system.

(2) **“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.

(3) **“Condition”** means the visible and conspicuous state of being of an object regarding its appearance, quality, or working order.

(4) **“Cooling and air conditioning”** means:

(a) designed to be permanently installed for central cooling and or heating (ducted) or modular (non-ducted) systems. Systems may include evaporator coil(s), condenser unit(s), heat pump(s), air handler(s) and furnace(s) or

(b) permanently installed evaporative cooling ducted systems. This definition does not include cooling units or appliances that are designed and intended to be portable, non-permanent and are designed for installation at windows.

(5) **“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.

(6) **“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.

D. Definitions beginning with the letter “D”:

(1) **“Describe”** means to document in writing.

(2) **“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.

E. Definitions beginning with the letter “E”:

(1) **“Electronic signature”** means an electronic sound, signal, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~(4)~~ (2) **“Engineering”** means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus.

~~(2)~~ (3) **“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 or processes.

F. Definitions beginning with the letter “F”:

(1) **“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.

(2) **“Fuel burning appliance”** means any natural gas, LP gas, wood, coal, or other similar organic fuel burning device or appliance, including but not limited to fireplaces, whether masonry or factory built; fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of said devices or appliances.

(3) **“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.

(4) **“Functional”** means the ability of an item, component, or system to perform its function.

(5) **“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.

(6) **“Functional flow”** means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

(7) **“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.

G. Definitions beginning with the letter “G”: **“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.

H. Definitions beginning with the letter “H”:

(1) **“Home inspection”**, as defined by Subsection ~~[E]~~ F of Section 61-24D-2 NMSA 1978, 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, ~~[heating,]~~ foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its attached or detached 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.

(2) **“Home inspector”**, as defined by Subsection [F] G of Section 61-24D-2 NMSA 1978, means a person who performs home inspections for compensation.

I. Definitions beginning with the letter “I”:

(1) **“Identify”** means to describe a specific system or component by its type and to distinguish it by characteristics such as general or specific materials, energy sources, etc., which differentiate that system of components from other similar systems and components.

(2) **“Inspected Property”** means the readily accessible areas of the buildings, site, items, components and systems included in the Home Inspection.

~~(3) **“Inter-NACHI examination”** means the examination offered, conducted, and proctored by the international association of certified home inspectors (Inter-NACHI).~~

J. Definitions beginning with the letter “J”: [RESERVED]

K. Definitions beginning with the letter “K”: [RESERVED]

L. Definitions beginning with the letter “L”:

(1) **“Licensure by credentials”** 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.

(2) **“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 the proctored Inter-NACHI examination.~~ a board approved examination.

(3) **“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 24 months immediately preceding January 1, 2020, the applicant’s performance of at least 100 home inspections for compensation in the 24 months immediately preceding January 1, 2020, and the applicant’s passage of a ~~national home inspector examination, whether the NHIE or the proctored Inter-NACHI examination~~ a board approved examination.

M. Definitions beginning with the letter “M”: [RESERVED]

N. Definitions beginning with the letter “N”:

~~(1) **“National home inspector examination”** or **“NHIE”** means the examination offered, conducted, and proctored by the examination board of professional home inspectors (EBPHI); or the examination offered, conducted and proctored by the international association of certified home inspectors (Inter-NACHI).~~

~~(2)~~ (1) **“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.

~~(3)~~ (2) **“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.

O. Definitions beginning with the letter “O”:

(1) **“On-site water supply quality”** means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(2) **“On-site water supply quantity”** means the rate of flow of water.

P. Definitions beginning with the letter “P”:

(1) **“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.

(2) **“Pre-inspection agreement”** means a signed agreement between the home inspector and their client executed prior to the commencement of the inspection detailing the services that the home inspector will provide.

~~(3)~~ (3) **“Proctored examination”** means a test taken under the supervision of testing staff. The proctor’s function is to ensure procedural integrity and security of the examination in a secure environment. Examination passage must be in writing and written by the organization or entity that administered the examination.

~~(4)~~ (4) **“Professional liability insurance”** means errors and omissions insurance.

Q. Definitions beginning with the letter “Q”: “Qualified” means having the training, skills, knowledge, expertise, 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.

R. Definitions beginning with the letter “R”:

(1) **“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.

(2) **“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.

(3) **“Readily openable access panel”** means a panel located within normal reach or from a four-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 panel board enclosure dead front covers.

(4) **“Residential recreational facilities”** means residential spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground and other similar equipment, and associated accessories that are installed at the inspected property.

(5) **“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.

(6) **“Representative number”** means all readily accessible identical components such as windows, electric switches and electric receptacles that serve as a typical or characteristic example of the items or components inspected. When 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.

(7) **“Roof drainage systems”** means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(8) **“Routine maintenance”** means typical, regular, ongoing, and expected maintenance that is part of an ongoing and prudent overall property and building systems upkeep program.

S. Definitions beginning with the letter “S”:

(1) **“Safety glazing”** means tempered glass, laminated glass, or rigid plastic.

(2) **“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.

(3) **“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.

(4) **“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.

T. Definitions beginning with the letter “T”: **“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.

U. Definitions beginning with the letter “U”: [RESERVED]

V. Definitions beginning with the letter “V”: [RESERVED]

W. Definitions beginning with the letter “W”:

(1) **“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.

(2) **“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, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.1.9 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, 1/15/2021; A, 04/23/2024]

16.66.1.13 RULE IMPLEMENTATION PERIOD:

A. ~~[Within six months of the effective date of these rules any]~~ 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 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]~~ Effective January 15, 2021, 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 months provided for in this rule, the Board may vote at an open meeting to extend the rule implementation period beyond those initial six 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 30 days after the expiration of the state of emergency declared by the Governor.]~~

B. 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, 1/15/2021; A, 04/23/2024]