

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

Chapter
108-03-01 Manufactured Home Installation Program

**CHAPTER 108-03-01
MANUFACTURED HOME INSTALLATION PROGRAM**

Section
108-03-01-01 History
108-03-01-02 Scope
108-03-01-03 Definitions
108-03-01-04 Inquiries
108-03-01-05 Administration
108-03-01-06 Installers of Manufactured Homes - Registration
108-03-01-07 Installation by Owner
108-03-01-08 City, County, or Township Requirements
108-03-01-09 Certified Installer
108-03-01-10 Certified Installation Inspector
108-03-01-11 Standards
108-03-01-12 Inspection Procedures
108-03-01-13 Complaints
108-03-01-14 Suspension or Revocation
108-03-01-15 Appeal of Revocation or Suspension
108-03-01-16 Installation Insignias
108-03-01-17 Reports
108-03-01-18 Penalty
108-03-01-19 Fees

108-03-01-01. History.

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

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

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

108-03-01-02. Scope.

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-03. Definitions.

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-04. Inquiries.

Inquiries about this program may be addressed to:

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-05. Administration.

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

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

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

1. Name of the installer and company;
2. Proof in the form of a copy of a valid driver's license or certificate of birth that the applicant is at least eighteen years of age;
3. Evidence from the applicant of attendance at training provided by the state in conjunction with the North Dakota manufactured housing association and passage of the North Dakota installation program examination, except for installers in business prior to the effective date of this chapter;
4. Existing installers may, in lieu of the above, provide evidence of at least three years of experience or equivalent training and testing in the installation of manufactured homes and attendance at training provided by the state in conjunction with the North Dakota manufactured housing association;
5. Proof of contractor's liability insurance in an amount not less than one hundred thousand dollars. This insurance policy shall contain a provision for the immediate notification of the division upon cancellation; and
6. A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars for the performance of installation pursuant to the manufacturer's installation instructions. A provision shall be included for the immediate notification of the division upon cancellation.

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

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

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-09. Certified installer.

Any registered installer who has performed five consecutive installations that pass inspection by a certified inspector may apply to the division to be a certified installer. Evidence of complying installations shall include copies of all inspection reports made for each installation. The division will review the reports and decide if the registered installer should be granted certification. The division may require additional installations to be performed before granting certification. No fee will be charged by the division for this certification.

A certified installer shall be authorized to post the installation authorization on the installation site. A certified installer shall also be authorized to purchase and attach installation insignias from the division. These insignias will be completed by the certified installer upon completion of the installation and attached to the manufactured homes. The certified installer shall complete and submit a required installation authorization and insignia report each month to the division. Installations by a certified installer do not require an inspection by a certified inspector. If a certified installer is performing work in a jurisdiction that is a participating jurisdiction, the installer must request the permission of the participating jurisdiction to issue its own installation authorization and to purchase and attach installation insignias. The division, or a certified inspector at the request of the division, may inspect the installation of any manufactured home performed by a certified installer.

Certified installers shall allow and pay for periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program requirements and applicable installation standards. The frequency of oversight inspections will be based on the findings of the inspections.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

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

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

Certification is valid for one year, and each certification will expire on the same date, regardless of the effective date, whether or not the certification is issued for all or a portion of the certification period.

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

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-11. Standards.

Since this program pertains only to the first-time installation of a manufactured home, the primary standards are the specifications provided in the manufacturer's installation instructions. However, alternate standards developed by the federal department of housing and urban development and adopted by the state may also be utilized. The standards do not pertain to the construction of permanent foundations. Standards for construction of permanent foundations are the responsibility of the local jurisdiction in which a manufactured home is installed.

Nothing in this section shall preclude a local government from enacting standards for manufactured homes concerning unique public safety requirements, such as weight restrictions for snow loads or wind shear factors, as otherwise permitted by law.

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-12. Inspection procedures.

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

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

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

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

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

When the installation of a manufactured home is found to be in compliance with the manufacturer's installation instructions or alternate standards, an insignia will be permanently attached by the inspector making the inspection. A certified installer may inspect that person's own installation and permanently attach the insignia. The insignia will be placed within thirty inches [76.2 centimeters] of the expected location of the electric meter housing, electric service entry, or on the meter housing.

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-13. Complaints.

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

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

The division may permanently revoke, temporarily suspend, or fail to renew the registration or certification of an installer if the person or entity fails to:

1. File with the division each year and keep in force a letter of credit, certificate of deposit, or surety bond as required;
2. File with the division and keep in force the required liability insurance;
3. Pay assessed inspection costs;
4. Make any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's installation instructions;
5. Correct any defects or deficiencies in the installation in the time period established by the division; and
6. Pass periodic oversight inspections.

The division may also revoke the certification of a certified installer and replace it, at its discretion, with the status of registered installer.

When the certification of a certified installer is revoked or suspended, the installer must immediately return to the division all unused installation insignias and the installer will lose the right to purchase and install insignias.

When the installer's registration or certification is revoked, the installer may reapply as a registered installer one year after the date of revocation but must retest. To be considered as a certified installer, the installer will be subject to the conditions for obtaining certification.

The division may revoke, suspend, or fail to renew the certification of any certified inspector who fails to maintain the minimum requirements for the certification, has a conflict of interest, or as a result of investigation of complaints by the division, the inspector is found to repeatedly fail to enforce the requirements of the program. The division, or a certified inspector or other qualified entity at the request of the division, may inspect the installation of any manufactured home inspected by a certified inspector. When the certification of a certified inspector is revoked, suspended, or not renewed, the certified inspector must immediately return to the division all unused installation insignias and the inspector will lose the right to purchase and install insignias.

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

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

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

History: Effective January 1, 2006.

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-16. Installation insignias.

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

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

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

When an installation insignia is lost or damaged, the division must be notified in writing. The division will issue a replacement insignia.

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

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

Certified installers and certified inspectors may purchase a two-month supply of installation insignias.

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

108-03-01-17. Reports.

The division will establish and maintain a system of data bases and procedures for reporting for the following reports:

1. Each certified installer and certified inspector must submit a monthly report of installation authorizations issued.
2. Each certified inspector and certified installer must submit a monthly report accounting for insignias, both issued and on hand by serial number. The report is due by the fifteenth of the following month. A report is required even if no labels were issued during the month.

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

108-03-01-18. Penalty.

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

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

108-03-01-19. Fees.

The following nonrefundable fees apply:

1. Installer registration - \$150 per year.
2. Nonparticipating jurisdiction certified inspector - \$150 per year.
3. Installation insignia - \$50 per label.
4. Oversight inspection - \$225 per inspection.
5. Replacement insignia - \$40.

The division may charge other fees related to providing training based on the actual cost of the training materials and instructors.

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

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