

BUILD GREEN NM

BUILDER MEMBER APPLICATION



BUILDER INFORMATION

Date _____

The Undersigned Company is applying for Membership with the **BUILD GREEN NM** Program in cooperation with the Home Builders Association of Central New Mexico agrees to abide by the standard terms and conditions as seen below.

Name _____ Phone _____

Company _____

Address _____

City _____ State _____ Zip _____

Email Address _____

Website _____

What types of products or services do you provide that are "green"? _____

Please submit the above information as you would like it to appear on the "Green Products and Services" listing on the BUILDGREENNM website. Your company will appear under ONE category that best describes your product and/or services.

ENROLLMENT FEES

Annual enrollment fee:

- \$200.00 per year for Central NM Home Builders Association Members. (HBA of CNM)
- \$275.00 per year for all other NM Home Builders Association Members.
- Which NM HBA are you a member of? _____
- \$400.00 per year for non-HBA member

INSTRUCTIONS

Please complete the application completely and fax or send it to Build Green NM:
4100 Wolcott Ave. NE, Suite B, Albuquerque, NM 87109. Fax (505) 345-3795.

TERMS AND CONDITIONS

This application for membership in the BUILD GREEN NM Program is a voluntary agreement between the undersigned "Participant" and the HBA of CNM, which operates the BUILD GREEN NM program. The Participant agrees to abide by the following terms and conditions. Each application will be reviewed and approved by the Build Green NM committee.

The Enrolled Participant must be a member in good standing with the HBA of CNM or any local New Mexico Home Builders Association in order to qualify for participation discount. Enrollment fee is due with application for membership and renewed upon the membership anniversary date.

Builder Application and Participation Agreement052008.doc.doc

Rev. 5/1/08



Enrollment Fees:

BGNM Membership and Guidebook Fees For Build Green NM

Central NM HBA	Other NM HBA	Non-Member of HBA
Annual Fee: \$200.00	Annual Fee: \$275.00	Annual Fee: \$400.00
Guidebook: \$ 25.00	Guidebook: \$ 35.00	Guidebook: \$ 50.00

Payment Form:

<input type="checkbox"/> Check made payable to BUILD GREEN NM or	Amount: \$ _____
<input type="checkbox"/> Credit Card	
<input type="checkbox"/> Master Card <input type="checkbox"/> Visa <input type="checkbox"/> Amex	
Credit Card Number _____	Exp. _____ Security # _____
Company _____	
Name on Card _____	Signature _____
Billing Address _____	
City _____	Zip _____ Phone: _____

Mail or Fax application and payment form to:

HBA of CNM/Build Green NM
 4100 Wolcott NE Suite B
 Albuquerque, NM 87109
 PH: (505) 344-3294
 FAX: (505) 345-3795



BUILDER MEMBER PARTICIPATION AGREEMENT

ENROLLED BUILDER MEMBERS: It is the goal of the BGNM program to have 100% of all homes built to be BGNM Certified. However, when a builder or remodeler enrolls in the program they are not required to build every home to meet the program's criteria; rather they may choose to participate at whatever level best suits their market. Currently, BGNM does not have a certification process for remodeled homes and therefore is unable to certify these homes at this time. Green remodeling is quickly gaining in popularity and we hope to have a program in place soon. Remodelers can still use the basic principals of the Build Green NM program as a model for green remodeling by improving the overall condition of a home by increasing energy efficiency and resource conservation.

Only those homes registered and certified under the BGNM program will receive a Build Green NM "Certified Logo/Designation"

Every home registered with the program must meet the program's minimum criteria. These criteria found in the BGNM checklist, include an energy efficiency requirement, and a menu of options addressing a range of "green" items from which the builder must incorporate into the building process. The level of certification is based off of the lowest level achieved out of all sections. The program Director provides a range of technical support and training opportunities to assist builders in making their Checklist choices

As a quality control for the builders and the program, a random selection of participants homes registered under the BGNM program are subject to random site inspections by the Director of BGNM or a designated "Green Verifier" for compliance with the BGNM green features as listed on the BGNM checklist.

A separate inspection and plan review by a Third Party Home Energy Rater will also be conducted to verify design and compliance with the Energy Efficiency features of the home. These inspections act as an extremely important component of the program, as it brings enhanced credibility to the program, as well as meaningful education and technical support to the builders.

Informing and educating the home-buying public on the value of a home that meets BGNM standards is one of the primary undertakings of the program. We believe that the informed homebuyer will recognize the value of the greater energy efficiency, healthier indoor air, reduced water usage, improved comfort and durability, and reduced maintenance of a home built to the BGNM standards.



PROGRAM PARTICIPATION AGREEMENT

This Build Green NM Program Agreement (this "Agreement") is entered into on _____, 2008 in cooperation with the Home Builders Association of Central New Mexico ("HBA OF CNM") and _____ ("Enrolled Participant")

RECITALS

- HBA OF CNM is currently managing the Program for "environmentally responsible" built homes and projects. The Program is known as the "BUILD GREEN NEW MEXICO" (BGNM). A "Build Green Certified" project is one that meets the minimum criteria (Bronze Level) as set forth by the National Association of Home Builders Model Green Home Building Guidelines, as revised by the HBA of CNM. The criteria can be found in the "NAHB Model Green Home Building Guidelines", or www.greenbuildnm.com.
- The intent of the Build Green New Mexico program is to promote the construction of safe, healthy, comfortable, high performance, durable, energy efficient homes and projects, and to enhance enrolled participants marketing efforts in offering these homes to the public. *Homes built to the BGNM standard represent a commitment to the environment, the future and improving the way we live.*
- Build Green NM is a voluntary program. The purpose of BGNM is to encourage homebuilders to use technologies, products and practices that will:
 - Provide greater energy efficiency and provide healthier indoor air
 - Reduce water usage and preserve natural resources
- The operating budget of the program is generated from the dues and fees of the builder and associate members along with supporting sponsor members.
- Enrolled Participant wants to participate in the Build Green New Mexico and HBA of CNM and is willing to participate in accordance with the terms set forth in this Agreement.
- Enrolled projects are defined as residential homes, subdivisions, communities and developments.



AGREEMENT

The parties agree as follows:

1. Recitals. The above-listed recitals are incorporated here as if fully set forth here.
2. Program Fees. Annual enrollment fees and project registration fees are set forth in Exhibit C of the agreement, and made payable to the HBA of CNM. The Enrolled Participant must be a member in good standing with the HBA of CNM or any local New Mexico Home Builders Association in order to qualify for member discount.
3. Certification Fees. Fees for home certifications will be charged to builder based on level of certification as set forth under the BGNM guidelines.
4. Verification of Criteria. The BUILD GREEN NM Program will designate a Director (the "Director") to administer the BUILD GREEN NM Program on behalf of HBA OF CNM. Enrolled Participant grants to Director (or the Director's designee) unrestricted access to all Enrolled Homes/Projects at reasonable times, to verify that each Enrolled Home/project is being constructed in accordance with the criteria. All Enrolled Homes/Projects must be built to meet the standards of the Program. HBA OF CNM will supply a list of Certified Raters to Enrolled Participant who will choose a Certified Rater to administer the testing and rating procedure for each Enrolled Home. Enrolled Participant will grant to Certified Rater the right to distribute the final Rating Analysis to the BGNM for verifying all criteria was met in the construction of the Enrolled Home, and to verify the performance of Enrolled Home. All Rating Analysis information will be kept on file with the Director. Enrolled Participant agrees to comply with all reasonable rules established by HBA OF CNM for the administration of the BUILD GREEN NM. The current rules are set forth on Exhibit B attached to this Agreement. HBA OF CNM reserves the right to amend the rules from time to time and Enrolled Participant will comply with the rules in effect.
5. No Warranty by HBA OF CNM. Verification by the Director does not express or imply that HBA OF CNM warrants any element or standard of an Enrolled Home including, but not limited to: construction standards, specifications, quality, workmanship, materials, or energy efficiency. Enrolled Participant and any agent of Enrolled Participant representing an Enrolled Home will limit any description or representation of an Enrolled Home to any third party (including potential home buyers) of the Rating/Analysis Form and/or the listed criteria supplied by HBA OF CNM.
6. Certification: BGNM does in no way imply any warranty or guarantee for the home or the home's performance. Builders who are members of BGNM are not certified in any way by BGNM – only individual homes are certified based on builders checklist and supplied documentation provided to Director and other third party inspections of work completed.

7. Promotion by Enrolled Participant.

- A. Enrolled Participants may include THE BUILD GREEN NM Council Member logo on general business marketing. Once a builder certifies a home, a "certified logo" will be issued pertaining to the specific certified projects or projects that have been certified within the BGNM certification process. Builder may only use the BGNM "certified" logo on the specific property certified.
- B. Enrolled Participant agrees to participate in and allow use of Enrolled Participant's name in all BUILD GREEN NM Program marketing, advertising and public relations efforts.

8. BUILD GREEN NM Director Duties. Director agrees to do the following under the BUILD GREEN NM Program:

- A. To provide resources and reference material to the best of their ability,
- B. To provide reasonable assistance to allow Enrolled Participant to receive any existing or future advantage supplied by a third party such as financing programs related to "environmentally responsible" homes,
- C. To collect fees and report on status of funding for the Program
- D. To market and advertise the BUILD GREEN NM and all Enrolled Participants consistent with available funding generated by fees from the BUILD GREEN NM and to promote media coverage by means including, but not limited to, press conferences, press releases, and articles in local, regional, and national print media,
- E. To promote the BUILD GREEN NM to real estate brokers and agents, and
- F. To supply certification of criteria and performance verification of enrolled homes upon closing or transfer of an Enrolled Home to a third party.
- G. To perform site inspections for quality control purposes and to insure the integrity of the program under the BGNM guidelines.

9. Indemnification. Enrolled Participant agrees to protect, defend, and indemnify HBA OF CNM, its officers, directors, agents, and employees, and the Program Director, from and against all claims, demands, causes of action, suits, and other litigation (including costs and attorney's fees, including those on appeal) of any kind and character which are in any way related, directly or indirectly, to Enrolled Participant's participation in the BUILD GREEN NM which are caused by the act or neglect of Enrolled Participant or its officer, directors, agents, and employees, from and against any and all claims, demands, causes of action, suits, and other litigation (including costs and attorney's fees, including those on appeal) relative to personal injury or property damage which are directly caused by the Director or the Director's designee being at the construction site to perform the verifications necessary for qualification under the BUILD GREEN NM.

10. Withdrawal by Enrolled Participant. Enrolled Participant may withdraw from the BUILD GREEN NM at any time. Upon withdrawing, Enrolled Participant shall return all marketing materials of any kind and shall refrain from further identification with the BUILD GREEN NM through name or logo use. All fees paid by Enrolled Participant prior to withdrawal will not be refunded in whole or on a prorated basis. If Enrolled

Participant was registered under the terms of the Program written prior to this Agreement, he/she shall refrain from further identification with the BUILD GREEN NM, unless he/she signs a new Agreement, therefore adhering to the terms and conditions as they are outlined in this Agreement. If Enrolled Participant chooses to withdraw from the BUILD GREEN NM, a letter should be submitted to the Program Director, formally announcing the withdrawal of Enrolled Participant and all marketing materials should be returned.

11. Termination by Administration. The Director may terminate this Agreement at any time for cause by giving Enrolled Participant at least five (5) working days prior written notice at the address listed above. Cause includes, but is not limited to: failure to perform Enrolled Participant's duties pursuant to this Agreement, failure to comply with the Criteria and rules, and misrepresentation of homes to third parties as being an Enrolled Home and meeting the BUILD GREEN NM Criteria without proper testing, rating and certifying by a Certifier. Upon termination, Enrolled Participant shall return all marketing materials of every kind and shall refrain from further identification with the BUILD GREEN NM through name or logo use. All fees paid by Enrolled Participant prior to termination will not be refunded in whole or on a prorated basis.
12. Resolution of Grievances. Prior to either party taking any court action to enforce the terms of the Agreement, including termination, the aggrieved party shall give thirty (30) days prior written notice to the Board of Directors of HBA OF CNM at address listed above. The notice shall state in detail the basis for the grievance. The parties shall cooperate in good faith with the mediation process. If the grievance is not resolved to the satisfaction of both parties within the thirty (30) day-time period, either party may then institute court action to resolve the matter.
13. Waiver, Remedies. No waiver of any default, or delay or omission in exercising any right or power of a party, shall be considered a waiver of any default. The rights and powers of the parties may be exercised from time to time. No exercise or failure to exercise such a right or power shall be considered to exhaust that right or power. The exercise of, or failure to exercise, any one of either party's rights or remedies under this Agreement shall not be deemed to be a waiver of any right or remedy contained in this Agreement, or available at law or in equity.
14. Assignment. This Agreement may not be assigned by Enrolled Participant to any other party or entity.
15. Time of Essence. Time is of the essence of each and every term, condition, obligation, and provision of this Agreement.
16. Benefits. This Agreement and all of its terms, conditions, obligations, and provisions shall inure to the benefits of and be binding upon the parties, their heirs, successors, and assigns.

17. Paragraph Headings, Complete Agreement. Paragraph headings have been inserted in this Agreement for convenience only, and in no way define, limit or describe the scope or intent of this Agreement. This Agreement embodies the complete agreement of the parties and may not be altered or amended except by written agreement signed by all parties.
18. New Mexico Law. This Agreement shall be governed and construed in accordance with the laws of the State of New Mexico.
19. Attorney's Fees. If a party obtains legal counsel or brings an action against another party by reason of the breach of any term, condition, obligation, or provision of this Agreement, the unsuccessful party shall pay to the prevailing party reasonable attorney's fees and other related costs including court costs, which shall be payable whether or not any action is prosecuted to judgment. The term "prevailing party" shall include, without limitation, a party which obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought, whether by compromise, settlement, or judgment.

HBA OF CNM:
BUILD GREEN NM, Director

ENROLLED PARTICIPANT:

Company _____

By _____

By _____

Date _____

Date _____



EXHIBIT A

BUILD GREEN NM Program Rules

- The Participant will sign the Contract.
- The Participant will pay the annual BUILD GREEN NM membership fee. Initial payment will accompany signed contract.
- The Participant agrees to submit projects plans, and completed BGNM Checklist with all required documentation as outlined in the NAHB Model Green Building Guidelines (Exhibit A).
- The Participant agrees to complete *enrolled* projects to meet the minimum standards of the NAHB Model Green Home Building Guidelines set forth in Exhibit A.
- Viable alternatives that can be substantiated and used in the construction of a BUILD GREEN NM Project must be pre-approved by the Technical Advisory Committee and/or the Program Director.
- For the purpose of quality control, it may be necessary for the BGNM Director or other certified third party inspector to make a site visit to confirm or verify components of the home.
- The Participant will pay for all Third Party testing required by the Guidelines set forth in Exhibit B from the approved list of Raters and Certifiers provided by the BUILD GREEN NM Program.
- The Participant will pay a fee to BGNM for certifying a home under the BGNM program. Fees are associated with the BGNM certification level achieved. (I.E. Bronze, Silver, Gold)
- Each individual floor plan must be performance tested or adhere to the **"Sampling" Protocol (Exhibit B)**
 - (1) *Recommended* duct blast at rough-in stage (leakage to unconditioned space less than 5% of blower capacity, total leakage less than 10% of rated blower capacity, **(3.3.6.2B of the NAHB Green Home Building Guidelines.)**)

(2) *Recommended* inspection of building envelope; air sealing details, proper installation of insulation and windows, and doors flashed caulked and seal properly, **(3.3.6.1 of the NAHB Green Home Building Guidelines.)** *Does count as additional points*

(3) Blower Door and Duct Blast test at final on the building envelope leakage (less than 0.35 ACHant) **(3.3.6.2.A of the NAHB Green Home Building Guidelines.)**

Testing to be performed by a third-party, Accredited Rater, who is approved by the BUILD GREEN NM Program, will do the testing and inspections. The Participant will contact the Accredited Rater and pay the cost of these tests and inspections.

- Should the Participant be suspended from BUILD GREEN NM (or end his/her participation agreement), the Participant agrees to return all promotional material and to cease using the BUILD GREEN NM name or logo. _____initial
- The BUILD GREEN NM logo and name is a trademark of Home Builders Association of Central New Mexico and the Green Building Initiative and cannot be used without prior written permission. _____initial
- The Participant understands that the Home Builders Association of Central New Mexico may amend these Rules at any time. All BUILD GREEN NM participants will be informed, in writing, of any Rule changes or amendments. _____initial



EXHIBIT B

"SAMPLING" PROTOCOL

- Certification via the Sampling Protocol does not constitute a "confirmed" rating
- HERS Index can be assigned, but must be the same for each home plan and equal to the threshold specification determined from plans
- Sampling Providers assume all warranties and liabilities with the sampling of homes

Definitions:

- **Sample Set** – A specific group of homes from which one or more individual homes are randomly selected for sampling controls.
- **Sampling Controls** – A collection or set of required tests and inspections performed for a sample set of homes in order to confirm that the threshold specifications have been met. "Sampling Controls" may refer to the entire set of tests or inspections, or to a particular phase that constitutes a defined subset of those tests and inspections (e.g. pre-drywall, final, HVAC, windows and orientation, etc).
- **Threshold Specifications** – A set of qualification criteria, which are established for a sample set, based on worst-case Projected Ratings with consideration of all options, and the worst-case orientation, or a set of prescriptive specifications such as the ENERGY STAR prescriptive path adopted by the U.S. Environmental Protection Agency.
- **Failed Item** – A "failed item" constitutes a category of failure, such as insulation installation, duct leakage, prescriptive air sealing requirements, insulation enclosure, eave baffles, mechanical system efficiency, window specifications, etc. For the purpose of follow-up inspections, a "failed item" is not limited to the specific instance in a home but to that category of minimum rated features as it applies to the home design.
- **Failure** – When one or more of the threshold specifications is not met during the testing and inspection process.

Technical Requirements for Sampling

Homes eligible to be sampled:

- ✓ Homes of "same construction type using the same envelope systems"
- ✓ Worst-case analysis of floor plans: Worst-case orientation, all known option packages, and applicable site locations.

Labeling of Homes:

- "This home has been certified using a sampling protocol in accordance with RESNET Standards. As such, some or all of the energy features of this home may or may not have been individually inspected or tested."

“Sample Set”:

- Homes to be sampled can be selected within the same subdivision or metropolitan area
- All “sampling controls” (i.e. tests and inspections) for a sample set at a particular stage of construction, MUST be completed within 30 days
- Sample sets do not have to consist of the same 7 homes throughout all stages of construction
- Participating subdivisions must be subject to “sampling controls” at least once every 90 days and have a minimum of 1 home start every 90 days
- **Sample controls must be completed at a minimum ratio of one (1) test or inspection per seven (7) homes**
- **A certified rater must oversee the sampling process**
- Sampling controls can be completed on a single home or several homes within a given sample
- **Builders qualify for sampling by first completing seven (7) consecutive homes without a failure.**
- **New subdivisions require three (3) consecutive homes to pass without failure before starting sampling**
- **“When an initial failure occurs, the failed item(s) shall be tested or inspected in two (2) additional homes”**
- **“When an additional failure occurs, in one or more of the two (2) additional homes, the failed item(s) shall be tested or inspected in the remaining four (4) homes” in the sample set**
- **“Until the failure is corrected in all identified (failed) homes in the sample set, none of the homes shall be deemed to meet the threshold or labeling criteria”**
- **Multiple failures may result in a 90 day period, builder must re-qualify to sample by completing seven (7) consecutive homes without failure.**

Sampling Provider Accreditation

- ✓ Must be an Accredited Provider in good standing
- ✓ Accreditation must be renewed annually
- ✓ Builders cannot use the sampling standard to certify or qualify homes in which they have a financial interest



Exhibit C

FEE SCHEDULE
Annual Enrollment Fee- Participant

BGNM Annual membership and Guidebook Fees For Build Green NM

Central NM HBA	Other NM HBA	Non-Member of HBA	
Annual Fee: \$200.00	Annual Fee: \$275.00	Annual Fee: \$400.00	
Guidebook: \$ 25.00	Guidebook: \$ 35.00	Guidebook: \$ 50.00	

Property Verification and Certification Fees

BRONZE	SILVER	GOLD	
Verification Fee: \$50.00	Verification Fee: \$50.00	Verification Fee: \$50.00	
Certification Fee: BGNM Member \$195.00 Previously certified model \$75.00 NON-Member \$395.00	Certification Fee: BGNM Member \$250.00 Previously certified model \$125.00 NON-Member \$495.00	Certification Fee: BGNM Member \$595.00 Previously certified model \$295.00 NON-Member \$795.00	

Development/Subdivision Fees
For "Sustainable Green Community" Certification:

Size	Initial fee	Per lot fee	Min total fee	Max total fee
5 - 25	\$250	\$50	\$250	\$1,500
26 - 50 lots	\$750	\$30	\$1,530	\$2,250
51-100 lots	\$1,000	\$25	\$2,275	\$3,500
101-250 lots	\$1,500	\$20	\$3,520	\$6,500
251 - 500	\$2,750	\$15	\$6,515	\$10,250
501 -1000 lots	\$4,000	\$12.50	\$10,262	\$16,500
1,001 +	\$6,500	\$10	\$16,510	\$56,500

