

The following is a sample Property Owner Guide to Understanding Community Substantial Improvement/Damage requirements that communities can use and/or customize for their purposes to help inform property owners of these requirements. Please also see the accompanying sample Substantial Improvement/Damage application packet.

Please contact NHOSI Floodplain Management Program staff for any questions or assistance.

## Property Owner Guide to Understanding Community Substantial Improvement and Substantial Damage Requirements for Structures Located in Special Flood Hazard Areas

As a participating community of FEMA's National Flood Insurance Program (NFIP), the [Insert Municipality's Name] has adopted and enforces at least the minimum NFIP requirements in its [Insert Name of the Municipal Document where floodplain regulations can be found] in order to protect lives and property from future flood damages. These requirements are also included in the State's Building Code (2015 IBC (Section 104.2.1) and IRC (R105.3.1.1)). The community must adopt and enforce these laws in order to continue to participate in the NFIP and in order for federally-backed flood insurance to be made available to all residents.

The purpose of this document is to provide property owners with information about the community's floodplain requirements in regards to any proposed reconstruction, rehabilitation, repairs, addition, or other improvements to a structure that is located in a Special Flood Hazard Area. The purpose of the application documents, which must be completed and submitted to the community, are to assist the community in making their substantial improvement or substantial damage determination in a fair and consistent manner.

Please review this document to understand the process the community must follow to make these determinations of substantial improvement or substantial damage. Please also review the Substantial Improvement/Damage Application Packet, which includes the application form and required accompanying documents.

Please contact the following for any questions or assistance:

Insert Name of Municipal Official and their Title or Community Department and Contact Information

### FEMA Resources To Review:

**Substantial Improvement/Damage Desk Reference (FEMA P-758, 2010)**

<https://www.fema.gov/media-library/assets/documents/18562>

**Answers to Questions about Substantially Improved/Substantially Damaged Buildings (FEMA 213, 2018)**

<https://www.fema.gov/media-library/assets/documents/169099>

## Definitions to Know:

**“HISTORIC STRUCTURE”** means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior; or
  - (ii) directly by the Secretary of the Interior in states without approved programs.

**“SUBSTANTIAL IMPROVEMENT”** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or Any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

**“SUBSTANTIAL DAMAGE”** means damage of any origin sustained by a structure where the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*The above definitions come from the NH state model ordinance. If the definitions in the community's floodplain regulations differ from those listed above, please revise the definitions above to match the community's definitions.*

1. Who makes the Substantial Improvement and Substantial Damage determinations and how are they done?

The community is responsible for determining when a structure has been substantially damaged or when it is proposed to be substantially improved. The community gathers and reviews needed information through the documents included in the Application Packet submitted by the applicant in order to:

- determine the total cost of the work to update or repair the structure;
- determine the market value of the structure; and
- determine whether the cost of repairs/improvements equals or exceeds 50 percent of the market value of the structure and provide this determination to the applicant.

## **2. What happens if a structure receives a Substantial Damage or Substantial Improvement determination?**

If the community determines that a structure is "substantially damaged" or will be "substantially improved," the structure must then be brought into compliance with the community's floodplain regulations, including ensuring that the lowest floor of the structure is elevated to the required height above the Base Flood Elevation shown on the community's Flood Insurance Rate Map (FIRM) and in the Flood Insurance Study (FIS) report. To comply with this requirement, an [Elevation Certificate](#) must be completed and submitted to the community that shows the lowest floor elevation of the existing structure. If the lowest floor is currently below the Base Flood Elevation, the building must be elevated to, or above it. All electrical and mechanical equipment (heating and cooling, etc.), must also be elevated to, or above that level. Only parking, building access and limited, incidental storage is allowed below the Base Flood Elevation. Enclosures below grade on all sides are not permitted. Non-residential buildings may be "floodproofed" to the Base Flood Elevation instead of being elevated. If this option is chosen, the applicant must submit a completed [Floodproofing Certificate](#) instead of an Elevation Certificate.

## **3. How is the market value of a structure determined?**

The community will use the tax assessment value of the structure (excluding the land) as the estimate of the market value of the structure before the work is performed. If a property owner disagrees with the tax assessed value of the structure documented by the community, they may provide a market value appraisal of the structure that is prepared by a professional appraiser according to the standard practices of the profession. The community will review the appraisal to determine that it accurately describes the structures and does not include the value of the land, accessory buildings (including detached garages), and landscaping.

## **4. How is the cost to improve/repair a structure determined?**

For the community to make a substantial improvement determination, the property owner must provide a detailed and complete cost estimate, which must include costs for an addition, remodeling, reconstruction or other improvements, that is prepared and signed by themselves or a licensed general contractor.

For the community to make a substantial damage determination, the property must provide a detailed and complete cost estimate, which must include the cost of repairs for all work necessary to restore a structure to its pre-damage condition (whether those repairs are done following the damage or later) and any other proposed improvements to the structure, that is prepared and signed by themselves or a licensed general contractor. Whether the origin of damage (i.e. fire, flood, tornado, pipe burst, etc.) was a single incident or a widespread event, the community official will do a visual inspection of the damages sustained and make a damage determination. This information will be provided to the property owner in the form of a letter. If the visual inspection clearly shows the amount of damage exceeds 50% of the market value of the structure, a detailed cost estimate may not be required to make the determination at the discretion

of the community. The property owner can still submit a detailed cost of repairs, which can be used to either provide support for the community's substantial damage determination or show that the damage is not considered substantial.

## 5. What costs must be included in repair/improvement cost estimates?

Items that must be included in the costs of improvement are those directly associated with the work being done on the structure. For substantial damage, the costs of repairs must include all work necessary to restore a structure to its pre-damage condition. See the following list of items to be included.

### **Items to Include:**

#### **ALL STRUCTURAL ELEMENTS AND EXTERIOR FINISHES INCLUDING:**

- Spread or continuous foundation footings and pilings
- Monolithic or other types of concrete slabs
- Bearing walls, tie beams and trusses
- Wood or reinforced concrete decking or roofing
- Joist, beams, subflooring, framing, and ceilings
- Attached decks and porches
- Interior non-bearing and partition walls
- Exterior wall finishes (e.g., brick, stucco or siding) including painting and decorative moldings
- Windows and exterior doors
- Re-shingling or re-tiling a roof
- Hardware

#### **ALL INTERIOR FINISH ELEMENTS, INCLUDING:**

- Tiling, linoleum, stone or carpet over sub-flooring
- Bathroom tiling and fixtures
- Wall finishes (e.g., drywall, painting, stucco, plaster, paneling, marble or other decorative finishes)
- Kitchen, Counter-tops, utility and bathroom cabinets
- Built-in bookcases, cabinets and furniture
- Hardware
- Insulation

*See next page for additional costs to include*

#### **ALL UTILITY AND SERVICE EQUIPMENT, INCLUDING:**

- HVAC equipment
- Repair or reconstruction of plumbing and electrical services
- Light fixtures and ceiling fans
- Security systems
- Built-in kitchen appliances
- Central vacuum systems and Generators
- Water filtration, conditioning or recirculation systems
- Solar panels and equipment

**OTHER COSTS:**

- Materials and labor, including the estimated value of donated or discounted materials and owner or volunteer labor (see box below)
- Site preparation related to the improvement or repair, such as foundation excavation or filling in basements
- Demolition and construction debris removal
- Labor and other costs associated with demolishing, removing or altering structure components to accommodate improvements, additions, and making repairs
- Costs associated with complying with other requirements and codes that may be triggered by the work
- Overhead and profit
- Construction management and supervision

**USE OF DONATED MATERIALS AND/OR OWNER OR VOLUNTEER LABOR**

The value of any donated materials and volunteer labor must be included in the cost estimate.

To determine the value of donated materials, especially in regards to Substantial Damage, use the “pre-storm” normal retail cost for each item donated.

Labor cost estimates should reflect applicable wage scales for the type of construction work to be performed regardless of whether the labor is to be paid, provided by the owner or volunteered.

## 6. What costs should not be included in repair/improvement cost estimates?

Items that can be excluded are those that are not directly associated with the structure. See the following list of items to exclude.

### **Items to Exclude:**

- Cost of building plans, specifications, surveys, permits and other items incidental to the actual enhancement construction costs
- Debris removal (e.g., removal of debris from building or lot, dumpster rental, transport fees to landfill and landfill tipping fees), and clean-up (e.g., dirt and mud removal, building dry out, etc.)
- Items not considered real property such as: throw rugs (carpeting over finished floors), furniture, refrigerators, appliances which are not built-in, etc.

**OUTSIDE IMPROVEMENTS**, to also be excluded:

- |                                                       |                                                              |                                      |
|-------------------------------------------------------|--------------------------------------------------------------|--------------------------------------|
| <input type="checkbox"/> Landscaping                  | <input type="checkbox"/> Decks and Gazebos                   | <input type="checkbox"/> Fences      |
| <input type="checkbox"/> Driveways and Sidewalks      | <input type="checkbox"/> Detached structures (incl. garages) | <input type="checkbox"/> Sheds       |
| <input type="checkbox"/> Landscape irrigation systems | <input type="checkbox"/> Screened pool enclosures            | <input type="checkbox"/> Yard lights |
| <input type="checkbox"/> Docks and Davits             | <input type="checkbox"/> Swimming pools\spa                  | <input type="checkbox"/> Seawalls    |

### **Historic Structures**

For designated historic structures, compliance with the community's floodplain management ordinance is not required as long as documentation is submitted that proves that the structure meets the criteria listed in the "historic structure" definition in the community's floodplain ordinance and documentation or plans are submitted that shows the alterations to the structure would not affect its continued designation as a historic structure.

### **Existing Health, Sanitation or Safety Code Deficiencies**

The cost of repairs necessary to correct health, sanitation or safety code violations can also be deducted from the enhancement cost estimates. The community's permitting official, however, must be informed of and confirm the extent of the code deficiencies. Furthermore, the deficiencies must exist prior to the building enhancements and not be triggered solely by the enhancements. Only the cost of minimum necessary repairs required to assure safe living conditions may be deducted to correct health, sanitation or safety code deficiencies.

## 7. What is Increased Cost of Compliance coverage?

If a structure is damaged by a flood, a property owner may be required to meet certain building requirements in the community's floodplain regulations to repair or rebuild the structure. To help property owners cover the costs of meeting those requirements, the National Flood Insurance Program offers Increased Cost of Compliance (ICC) coverage in their flood insurance policy.

Flood insurance policyholders in special flood hazard areas may receive up to \$30,000 to help offset the costs to bring their structure into compliance with the community's floodplain management ordinance or regulations.

When applying for a permit to repair the damage to the structure, the community must make a substantial damage determination. If the community determines that the structure is substantially damaged and was damaged by flooding, and the property owner has an effective NFIP flood insurance policy for the structure, the property owner should contact their insurance company that issued their flood insurance policy and file an Increased Cost of Compliance claim.

There are four options a property owner can choose, or any combination of, to help reduce future flood damage. Property owners should consult with the community to help determine which option is best for their property.

- **Elevation**  
This option raises the structure to or above the flood elevation level adopted by the community.
- **Demolition**  
This option tears down and removes flood-damaged buildings.
- **Relocation**  
This option moves the structure out of harm's way.
- **Floodproofing**  
This option is available primarily for non-residential buildings. It involves making a building watertight through a combination of adjustments or additions of features to the building that reduces the potential for flood damage.

More information about Increased Cost of Compliance coverage is available at:

<https://www.fema.gov/floodplain-management/financial-help/increased-cost-compliance>

## Substantial Improvement or Substantial Damage Application Requirements Checklist

The following is the checklist of the documents that an applicant must submit as part of the community permit application process for substantial improvement or substantial damage of an existing structure located in a special flood hazard area. This checklist can also be found in the *Substantial Improvement and Substantial Damage Application Packet*.

**APPLICANT MUST SUBMIT ALL OF THE FOLLOWING** (please check off each item):

- Completed and signed application** for substantial damage/improvement review (included in the packet).
  
- Completed, Certified, and Signed FEMA Elevation Certificate** with elevations for the existing structure, which will be used to determine what measures will be needed to bring the existing structure into compliance.
  
- Current Photographs** of the structure's exterior (front, rear, sides). If the structure has been damaged, include photographs of the interior and exterior and, if available, pre-damaged photos of the exterior.
  
- Estimated Cost** of reconstruction/improvement form (included in the packet) and all supporting documents. Include subcontractor's bids and itemized cost lists (see footnote on Cost Estimate Form).
  
- Property Owner's Affidavit** signed and dated (included in the packet).
  
- Contractor's Affidavit** signed and dated (included in the packet).
  
- This **Checklist**.