



Florida Guidance for Amending the Definition of Market Value

State Floodplain Management Office
 Florida Division of Emergency Management
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Florida communities that have adopted or amended floodplain management regulations over the past decade adopt a definition for “market value.” The term “market value” is used in the definitions for Substantial Damage and Substantial Improvement. Those definitions, which flow from the National Flood Insurance Program (NFIP) regulations, are included in local regulations and the Florida Building Code. The definitions are shown on page 2.

Communities are required to determine whether the improvements proposed for buildings in flood hazard areas constitute substantial improvement or whether damage by any cause incurred by buildings in flood hazard areas meet the definition of substantial damage. Local floodplain management ordinances include a section titled “Substantial improvement and substantial damage determinations” (shown on page 2).

In both cases, when the costs of improvement, or costs of repairs necessary to restore a building to its pre-damage condition, equal or exceed 50% of the market value of the building, the FBC requires the building to be brought into compliance with the flood load and flood resistant requirements of the codes.

Since mid-2020, many Florida communities have amended the definition for market value that was included in the Florida Model Ordinance written to work with the Florida Building Code (more than 125 as of February 2022). The original definition offered three options for determining market value. The amendment removes the traditional “sales” type appraisal and clarifies the Actual Cash Value method. The option to use the property appraiser's tax assessment value is retained.

The SFMO encourages communities to amend the market value definition as shown below for a number of reasons, including there is less judgement and less opportunity for bias. This should make it easier for local officials to review appraisals. An important point to emphasize is that the “like-kind replacement cost” is what it would cost to build a building exactly like the one in question (not to current code). Independent appraisers may call this the “reproduction cost.” Applying underline and strike-through to the model definition, the amendment is shown here:

Cumulative Substantial Improvement

(CSI). Many Florida communities amend the definition of substantial improvement to specify a time period over which costs are accumulated (e.g., one, five, 10, or more years).

Repetitive Loss by Flooding. Some communities also amend the definition of substantial damage such that buildings that are damaged by flooding two times in a ten-year period for which the cost of repairs on average, equals or exceeds 25% of the market value of the building before the damage occurred.

Guidance for Amendments. See the SFMO guidance at the link on the next page for explanation of those higher standards and instructions for amending local regulations and the FBC to accomplish both.

Please Note! All communities that elect to amend the local floodplain regulations or the FBC must submit draft ordinances to the SFMO at least 30 days before presenting it to planning boards or elected officials.

Please put the community name in the subject line and send it to floods@em.myflorida.com.

Or send a request for the SFMO to work with you to prepare a draft.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsions to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

<https://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/> (Guidance, Ordinance Amendments, FBC Amendments, and Sample Forms). Issued February 2022.

The following are copied out of the Florida Model Ordinances. Your community's phrasing may differ.

<p>SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.</p>
<p>SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:</p> <ol style="list-style-type: none">1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
<p>XXX. Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:</p> <ol style="list-style-type: none">(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.