## Repetitive Loss (to mitigate repetitively flooded buildings and to qualify for NFIP Increased Cost of Compliance insurance claim payment) – FPM ordinance amendments and local technical code amendments (FBC, B and FBC, EB)

**Description:** Federal flood insurance policies include coverage called Increased Cost of Compliance (ICC). Owners of NFIP-insured buildings that are located in special flood hazard areas (SFHA) and are determined to meet the basic definition of “substantial damage” due to damage by flooding are eligible to file ICC claims for up to $30,000 towards the cost of bringing buildings into compliance with the floodplain management requirements for new construction. In communities that adopt specific language for “repetitive loss” structures, such structures may be eligible for the ICC claim even if they do not meet the standard 50% threshold for substantial damage by a single event. To qualify, communities must adopt and enforce the provision on all buildings in SFHAs, not just those covered by federal flood insurance. The specific language that defines “repetitive loss” is specified in the federal law that authorized the ICC coverage. [Source: FEMA 301, *Increased Cost of Compliance Coverage: Guidance for State and Local Officials*.]

Use this set of ordinance changes and code amendments if your community already has or elects to adopt requirements so that all repetitively flooded buildings that sustain specific levels of damage during a 10-year period are required to be brought into compliance with the requirements for new construction. If insured by the NFIP, owners of such buildings should be eligible for ICC claim payments after a flood event.

Communities that elect to adopt this language must maintain records that document the costs to repair flood damage (stated in permit applications) each time flood damage occurs. And communities must check those records for each subsequent permit application to repair flood damage. Communities that adopt this provision should have written administrative procedures in place.

The best way to accomplish this objective is to modify the definition of “substantial damage” in the floodplain management regulations, in FBC Building, and in FBC Existing Building. This approach is most consistent with the expectation that the community must take specific action to determine that a building repetitively damaged by flooding meets the modified definition of “substantial damage.” Another way, described in FEMA 301 but not shown here, is to adopt a new definition for “repetitive loss” and then modify the “substantial improvement” definitions to include buildings that have sustained repetitive loss. Because the ICC coverage is required by statute to be triggered by flood damage, that approach is not as intuitive as the approach shown below.

**How the FBC addresses “repetitive loss”:** The FBC includes the basic, NFIP-consistent definitions for Substantial Improvement and Substantial Damage (i.e., 50% threshold). There are no requirements specific to buildings that sustain repetitive flood damage.

**Instructions:**

***Submit your draft ordinance (in <track changes>) to Technical Support*** ***flood.ordinance@em.myflorida.com*** ***for review well in advance of your first reading.***

***Step 1.*** *See the General Instructions to select the appropriate Whereas clause(s) and insert the following brief description of the higher standard:*

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| require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of “substantial damage,”  |

***Step 2.*** *In SECTION 2 of the ordinance package (contains the floodplain management regulations), modify a definition in Section 202 and modify Section 103.4.*

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| **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. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. |
| **103.4 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: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; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition 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.
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***Step 3.*** *Add a new SECTION 3 to the ordinance package to adopt a local technical amendment to the FBC, Building as follows. Maintain strikethrough and underlining to denote changes to the FBC.*

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| **SECTION 3. The *Florida Building Code, Building* is hereby amended by the following technical amendment*.*** **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. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. |

***Step 4****. Add a new SECTION 4 to the ordinance package to adopt a local technical amendment to the FBC, Existing Building as follows. Maintain strikethrough and underlining to denote changes to the FBC.*

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| **SECTION 4. The *Florida Building Code, Existing Building* is hereby amended by the following technical amendment*.*** **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. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. |