

FLORIDA BUILDING CODE, SUBSTANTIAL IMPROVEMENT

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Cumulative Substantial Improvement – FPM ordinance amendment and local administrative and technical code amendments (FBC, B; FBC, EB)

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Description: See FEMA P-758, *Substantial Improvement/Substantial Damage Desk Reference*, for a complete explanation of the SI/SD determination. Section 5.7.2 of the Desk Reference has description of cumulative substantial improvement. One of the benefits of this provision is to reduce the likelihood that property owners will deliberately phase improvements sequentially for the specific purpose of avoiding the basic 50% rule.

DEM has found many communities have a cumulative substantial improvement provision in their existing regulations but are not enforcing it. If that's the case in your community, you may want to consider whether to retain it as you prepare the Model Ordinance for adoption.

How the Florida Building Code specifies Substantial Improvement (and Substantial Damage):

The FBC, Building and FBC, Existing Building both include the basic, NFIP-consistent definitions for the terms Substantial Improvement and Substantial Damage. Using these basic definitions means the SI/SD determination is done by the local official for each individual permit application for work (improvements, additions, repairs), even if more than one application is submitted within a short period of time. The SI/SD determination requires the local official to compare the cost of work to the market value of the building.

Instructions: Implementing cumulative substantial improvement requires modification of the definition of “substantial improvement” that appears in three places: the floodplain management ordinance; the *Florida Building Code, Building*, and the *Florida Building Code, Existing Building*. To ensure that the duties of the Floodplain Administrator clearly address this requirement, modification of Sec. 103.4 of the model ordinance is also recommended.

{see Note} To alert the public and those who use the regulations after adoption about this time-dependent requirements, where this note appears in the following texts, insert based on the following decisions:

- If the community has previously adopted a cumulative substantial improvement provision, insert the effective date of the first ordinance that adopted that provision.
- If this is the first time the community has adopted a cumulative substantial improvement provision, insert the actual date on which this ordinance will be effective.

{number of years} Communities may select the period of time over which they will maintain records to accumulate the cost of improvements and repairs. There are pros and cons for selecting longer periods (such as 10-years or the life of the structure) and for selecting shorter periods (such as 1-year or 5-years). The period of time also determines the number of Community Rating System points. Please also see FEMA P-758 to consider how market value over time will be handled. Communities that adopt this provision should have written procedures.

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

to require accumulation of costs of improvements and repairs of buildings, based on issued building permits, over a {insert number of years}-year period,

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

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a {number of years}-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the {number of years}-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to {see Note}. 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:

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 are 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. *[See Instructions and Notes]*

103.4 Substantial improvement and substantial determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, 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; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; 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 provisions of the *Florida Building Code* and this ordinance is required.

Step 3. Add a new SECTION 4 to the ordinance package to include a local technical amendment to the FBC, Building, to modify a definition. Maintain the underline and strike-thru because this modifies an existing definition.

SECTION 4. The Florida Building Code, Building is hereby amended by the following technical amendment.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a {number of years}-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the {number of years}-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to {see Note}. 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:

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 are 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.

Step 4. Add a new SECTION 5 to the ordinance package to include a local technical amendment to the FBC, Existing Building, to modify a definition. Maintain the underline and strike-thru because this modifies an existing definition.

SECTION 5. The Florida Building Code, Existing Building is hereby amended by the following technical amendment.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a {number of years}-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the {number of years}-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to {see Note}. 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:

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 are 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.