



FLORIDA DIVISION OF EMERGENCY MANAGEMENT

Office of Floodplain Management

FLORIDA GUIDANCE FOR MARKET VALUE: Amending the Definition for Actual Cash Value

Office of Floodplain Management
Florida Division of Emergency Management
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OBJECTIVE: Since mid-2020, many Florida communities have amended the definition of market value that was included in the Florida Model Ordinance written to work with the Florida Building Code (more than 180 as of mid-2023). The original definition offered three options for determining market value. The amendment removes the traditional “sales” type appraisal that relies on recent sales of comparable properties. It also clarifies the Actual Cash Value method. The option to use the county property appraiser’s tax assessment value adjusted by a factor provided by the county property appraiser is retained.

The OFM encourages communities to amend the market value definition as shown below, for a number of reasons, including 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 the current code). Independent appraisers usually call this the “reproduction cost.”

DESCRIPTION: Florida communities adopt a definition for “market value” in local floodplain management regulations. The term 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 below.

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

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 percent 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.

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

IMPORTANT NOTE!

All communities that amend their local floodplain regulations or the FBC **must** submit draft ordinances to the OFM at least 30 days before presenting proposals to planning boards or elected officials.

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

Or send a request for the OFM 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 **county** property appraiser.

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.

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:

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.

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:

- (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.

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