Substantial Damage Quick Guide

When structures are damaged inside a Special Flood Hazard Area (SFHA)—also known as the area with a one percent annual chance of flooding—communities participating in the National Flood Insurance Program (NFIP) have a responsibility to assess the impacts. Assessments must be made before repairs can be made, no matter the cause of damage (tornado, fire, flood, etc.).

If the cost to repair is 50 percent or more of the market value, the structure is considered "substantially damaged" and must be brought into compliance with current local floodplain management regulations. Rebuilding to current regulations decreases danger to life and property, prevents future disaster suffering for the community, and may lower individual insurance premiums.

This guide provides the basics for ensuring community officials adhere to Substantial Damage (SD) or Substantial Improvement (SI) policies, as directed by the NFIP. Community officials are responsible for making SD/SI assessments and determinations before repairs and improvements are permitted.

What is Substantial Damage?

If the repairs needed to bring a structure to its pre-damage condition will equal or exceed 50 percent of the market value of the structure (not including the value of the land), the structure is considered "substantially damaged." Likewise, if the proposed work to improve a structure will cost 50 percent or more of the value, the structure is considered "substantially improved" and must be brought into compliance with current local floodplain management regulations.

If the community has adopted stricter standards—such as using 45 percent of the market value as the benchmark, accruing repair costs over a certain period of time, or prohibiting certain structures in the floodway—the community's standards apply instead.

Communities should decide in advance of an event how they will handle assessments of structures, perform public outreach and communication, and develop written standard operating procedures. Remember, consistency fosters efficiency and is important for defending SD determinations, especially when many buildings have been damaged during an event.

Costs to Include for Repairs and Improvements

The costs of repairs/improvements may be outlined by a contractor's bid, a local building official's estimate, or the FEMA Substantial Damage Estimator (SDE) software. A variety of factors must be included to calculate the cost. Here are some broad examples of such costs:

- Materials (including those donated and discounted)
- Labor (including owner- or volunteer-completed labor)
- Costs associated with complying with regulations and codes, such as elevation and floodproofing
- Structural elements
- Demolition and debris disposal
- Site preparations
- Interior and exterior finishes
- Utility and service equipment
- Contractor overhead or profit

Determining Market Value

For making SD calculations, local officials need to determine the market value of the structure. The NFIP does not define market value, but market value generally refers to the price a building would bring on the open market. The term may be defined by state statutes that pertain to zoning, property taxation, or real estate transactions. It is important to note two basic NFIP market value requirements:

1. Market value must always be based on the condition of the structure before the damage occurred or before the improvement is undertaken.
2. Only the market value of the structure is pertinent. The following are NOT included:
   - Value associated with the location of the property
   - Value of the use and occupancy (business income)
   - Value of the land and site improvements (landscaping, driveway, detached accessory structures, etc.)

Many communities estimate market value using either the assessed value developed for property tax assessment purposes adjusted to approximate market value **OR** estimates of a structure's actual cash value including depreciation. Whichever method you choose, you must be consistent in your methodology.

$$\frac{\text{Cost of Repair Improvement}}{\text{Market Value of Structure}} \geq 50\%$$

Substantial Damage/Improvement Determinations

An official SD/SI determination must be made, and an official letter of determination must be sent to the property owner from a community official. The community must also keep records of assessments, calculations, determinations, letters, and appeals in the property's permit packet in perpetuity.

Roles in Substantial Damage

Local officials in NFIP-participating communities are responsible for overseeing all development in Special Flood Hazard Areas (SFHA) by issuing permits and enforcing local floodplain regulations, including SD/SI policies.

After a disaster, officials must complete the following:

- Locate where the damage occurred within the community and if the damaged structures are in an SFHA.
- Tell property owners to NOT begin repairs or improvements until assessments have been made and permits have been issued.
- Advise property owners to document damage with photos, videos, and written statements.
- Utilize a consistent methodology for assessing the repair/improvement costs and the market value, which may include an initial estimate and a follow-up resolution.
- Determine if repairing and/or improving the damaged structure equals or exceeds 50 percent of the structure's pre-damage value.
- Approve plans and require permits for floodplain development. (Only permit fees may be waived.)
- Inspect development for compliance with floodplain regulations.

Following a disaster event, local officials should act quickly to move forward with the SD/SI process shown in the graphic below. Technical assistance may be available from FEMA and/or the TWDB. When there is a Presidentially Declared Disaster, communities may be reimbursed for their assessment, permitting, and inspection activities through FEMA Public Assistance. For more information, please see the Disaster Recovery Reform Act (DRRA) 1206 resources below.

NOTE: *SD assessments are not building safety evaluations, insurance inspections, or Texas Division of Emergency Management damage surveys. State and federal officials do not make SD/SI determinations. Local officials MUST make these determinations based on their land use authority and locally adopted regulations.*

Substantial Damage Process

Disaster event → Collect damage information → Calculate SD determination → Communicate determinations to owners → Resolve appeals & review proposed work → Issue permits & perform inspections

Additional Resources

TWDB Flood Programs www.twdb.texas.gov/flood

- flood@twdb.texas.gov
- floodgrant@twdb.texas.gov

TexasFlood.org www.texasflood.org

Flood Information Clearinghouse texasfloodclearinghouse.org

FEMA P-213 Answers to Questions About Substantially Improved/Substantially Damaged Buildings www.fema.gov/sites/default/files/2020-07/fema_p213_08232018.pdf

FEMA P-758 Substantial Damage Desk Reference www.fema.gov/sites/default/files/documents/fema_nfip_substantial-improvement-substantial-damage-desk-reference.pdf

FEMA Substantial Damage Estimator (SDE) Tool www.fema.gov/emergency-managers/risk-management/building-science/substantial-damage-estimator-tool

FEMA SDE Video Series www.youtube.com/playlist?list=PLayUpGk-iyXWwbMHHcK8lb7DgDvVtVNaO

Disaster Recovery Reform Act of 2018 (DRRA) Section 1206 - Building Code and Floodplain Management Administration and Enforcement www.fema.gov/assistance/public/policy-guidance-fact-sheets/section-1206-building-code-and-floodplain-management-administration-and

Public Assistance Companion Guide for DRRA 1206 www.fema.gov/sites/default/files/documents/fema_drra-1206-companion-document.pdf

This document references www.fema.gov/fact-sheet/substantial-damage-quick-guidesheet/substantial-damage-quick-guide