

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES
ADMINISTRATIVE BULLETIN CC2016-01**

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Purpose: This Administrative Bulletin (Bulletin) sets the use of a property's assessed value, as established by the Office of Tax and Revenue, in making a determination of "*substantial improvement*" or "*substantial damage*" in a Special Flood Hazard Area, pursuant to the District of Columbia Floodplain Regulations (20 DCMR, Chapter 31–Flood Hazard Rules, and the 2013 District of Columbia Building Code (2012 International Building Code as amended by District of Columbia Municipal Regulations, Title 12-A.)

Related Code Sections: 2013 District of Columbia Building Code Sections: 101.5.1 exception, 101.5.2, 105.1.12, 105.2.3 exception, 105.3 item 13, 106.2 (6), 202, 1206.6.8, 1612; 20 DCMR Chapter 31 *et seq.*

Subject(s): Use of assessed value as a basis in determining *substantial improvement* or *substantial damage* for properties located in a Special Flood Hazard Area.

Background

The District of Columbia Floodplain Regulations are intended to promote the public health, safety, and general welfare by reducing the exposure to damages and loss for public and private property as a result of flood conditions associated with Special Flood Hazard Areas (SFHA).¹

¹ *Flood hazard areas* are defined in Chapter 2 of the Building Code as "The greater of the following two areas: 1. The area within a flood plain subject to a 1-percent or greater chance of flooding in any year. 2. The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated." A *special flood hazard area* is "the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30."

The United States Congress established the National Flood Insurance Program (NFIP) in 1968 to address a lack of affordable, cost-effective flood insurance for properties located in floodprone areas. The Federal Emergency Management Agency (FEMA) is the designated NFIP administrator. Community participation in NFIP is voluntary, but once a community elects to join NFIP and take advantage of the reduced flood insurance costs, they incur an obligation to align their local floodplain management regulations and procedures to meet minimum NFIP requirements. The District of Columbia joined NFIP in 1976. The Department of Energy and Environment (DOEE) is the District of Columbia's lead agency for floodplain management.

In planning property development or improvements in a flood hazard area, registered design professionals must ascertain whether District Floodplain Regulations affect the proposed development or improvement, including whether the use of flood-resistant construction methods and materials are required. Newly constructed property that is physically located within a SFHA must comply with the Floodplain Regulations. The applicability of the Floodplain Regulations to existing properties located within a SFHA that may be undergoing renovation or repair will depend upon the financial triggers of *substantial improvement* or *substantial damage*.²

Section 202 of the *2013 District of Columbia Building Code* defines *substantial damage* and *substantial improvement* as follows:

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, addition or 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 are the minimum necessary to assure safe living conditions.

² *Substantial Damage* and *Substantial Improvement* are defined in Section 202 of the 2013 District of Columbia Building Code, DCMR 12-A

2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

The purpose of this *Administrative Bulletin* is to clarify the meaning of the phrase "equal or exceed 50 percent of the market value of the structure" as used in the definitions of *substantial damage* and *substantial improvement*.

Code Official Interpretation

For the purpose of establishing whether construction costs for renovation or repair of a building or structure within a SFHA are equal to or exceed 50 percent of the market value of the building or structure, the Department shall use the *assessed value* of the building or structure, as established by the District of Columbia, Office of Tax and Revenue, Real Property Tax Administration (OTR). OTR annually reassesses taxable and exempt properties in the District of Columbia at their fair and equitable market value. The OTR assessment provides a uniform and readily ascertainable basis for determining the market value of the structure or building. The assessed value of the land on which the building or structure is located shall not be included in the determination. The relevant assessment shall be the OTR assessment promulgated before the damage occurred or before the repair or improvement is started.

In determining the cost of improvements or repairs for purposes of the *substantial damage* or *substantial improvement* calculation, the Code Official will rely upon FEMA guidelines (see FEMA P-758/May 2010, Substantial Improvement/Substantial Damage Desk Reference, available online at <http://www.fema.gov/media-library/assets/documents/18562>), to determine the costs that must be included in determinations of *substantial damage* and *substantial improvement* and the acceptable sources of cost information. The Code Official has authority under Section 105.3, item 13 of the Building Code to require permit applicants to provide whatever data and information may be needed to determine the costs of construction or repairs.

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