

# **SUBSTANTIAL IMPROVEMENT**

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# **GOAL**

## **OF IMPROVING PROPERTY**

- Add value to home
- Prolong life of home
- Adapt it to new uses

# **EXPECTATIONS OF HOME IMPROVEMENT**

- **INCREASED RESALE VALUE**
- **Reduced cost of utilities**
- **Increased square footage**
- **Tax benefits**
- ***INSURANCE BENEFITS***

**EVERY PROPERTY OWNER**  
expects that improving their property will result in an  
***INCREASED RESALE VALUE***

**Some improvements –  
such as kitchen or bath remodels  
or  
lateral or vertical additions  
will see a better *rate of return* on the money  
invested in the project  
as compared to painting interior rooms, replacing  
light fixtures, or installing crown molding.**

# YOU SHOULD KNOW THAT...

- Bringing a Substantially Improved building up to current floodplain standards **MAY** be as simple as making the crawlspace (and attached garage) compliant with the Proper Openings requirements and backfilling the crawlspace to meet the 5' or 2/5 rule.
- **REDUCING THE RISK** to your **FAMILY** and your **INVESTMENT**
- **ADDED BENEFIT: COST** of FLOOD **INSURANCE** is **REDUCED**

The minimum federal floodplain regulations **REQUIRE** that  
Substantial Improvement (SI)  
be defined in the floodplain ordinance.

***FEMA's question to you, the community, is:  
Demonstrate to FEMA how you will  
implement and enforce the  
Substantial Improvement (SI) process.***

**ADMINISTERING** the SI/SD requirements requires **LOCAL OFFICIALS** to perform **FOUR** major actions:

1. Determine or verify project **costs**,
2. Obtain **market values**,
3. Make **SI/SD determinations**, and
4. Require owners to **obtain permits** to bring substantially improved or substantially damaged buildings into compliance with the floodplain management requirements.

**Communities must be prepared to explain to permit applicants **how** they make SI/SD determinations.**

**Local officials should develop written procedures that can help them make and document consistent determinations and demonstrate compliance with program requirements.**

# **Why** have this procedure or checklist prepared and made available?

- Program requires this standard to be enforceable
- Transparent
- Fair and objective
- Standards known at the time of the improvement or following an event

# *Substantial Improvement (SI) Determinations*

*(and Substantial Damage (SD) determinations)*

***Must be made for ANY building in the SFHA.***

- ***with or without flood insurance,***
- ***with or without a loan,***
- ***pre-FIRM or post-FIRM,***
- ***Federally/State or privately funded,***
- ***publicly or privately owned.***

# HAVE YOU WONDERED ABOUT **WHAT** Substantial Improvement (SI) IS?

- Any reconstruction (i.e., rebuild), rehabilitation (i.e., fix up, improve, restore), addition, or other improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the building before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not include either:
  - Any project for improvement of a building to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
  - Any alterations of a "historic building" provided that the alteration will not preclude the structure's continued designation as a "historic building."

# **WHAT IS THE PURPOSE OF DETERMINING IF A PROJECT IS A SUBSTANTIAL IMPROVEMENT?**

- Part of the National Flood Insurance Program requirement for a participating community.
- Bring that building up to current floodplain standards AND REDUCE THE RISK!
- An added benefit is lower insurance costs.

**WHAT QUALIFIES AS SI**  
**WHAT ACTIVITIES OR IMPROVEMENTS ARE**  
**CONSIDERED IN THE CALCULATION?**

See handout

# WHAT IS CUMULATIVE SI AND WHY SHOULD YOU CARE?

- Remember the goal of the National Flood Insurance Program is to identify, insure, and **REDUCE** flood risk!
- **Capturing substantial improvement in a cumulative method will bring building up to current standards AND REDUCE FLOOD RISK WHILE REDUCING THE FLOOD INSURANCE PREMIUM!!!**

**Circumventing** the SI requirement by doing projects in “phases”  
at 45% of market value

**WILL GUARANTEE A REDUCED RATE OF RETURN  
AT THE TIME OF RESALE.**

# DISASTER VERSUS NON-DISASTER IMPROVEMENTS IS THERE A DIFFERENCE?

## DISASTER – Local, State, or Federal declaration.

- Following an event (widespread or localized flood, house fire, wildfire burning acreage, subdivision, town, etc., windstorm, earthquake, etc.), the community is REQUIRED to evaluate all building in the Special Flood Hazard Area for Substantial Damage (SD). *The process and procedure for SD is another topic and workshop.*
- For widespread damage following an event, it is typical that you would implement your SD procedure, which would then be used to determine if SI will be triggered.
- Following an event, a Presidential Declaration is NOT required to activate the SD process. So you will need to coordinate with the fire department(s) and monitor the floodplain following a storm, etc.

# DISASTER VERSUS NON-DISASTER IMPROVEMENTS IS THERE A DIFFERENCE?

## NON-DISASTER

- Notifying property owners (including flippers and developers) is key to successful program administration and enforcement. Without a building permit requirement, the community will need to **notify** the property owner of Substantial Improvement (SI) – what is it, what factors go into it, why it is required, and ramifications for property owner (and community) if the procedure is not followed.

**DO YOU NEED A PROCEDURE TO  
DETERMINE IF A PROJECT IS SI?**

***ABSOLUTELY!!!!***

***TO BE TRANSPARENT, FAIR, OBJECTIVE, AND  
ENFORCEABLE!!!!***

# LEARN ABOUT THE BENEFITS OF INFORMING THE DEVELOPER/PROPERTY OWNER **BEFORE** THE WORK COMMENCES

- By informing and educating the property owner/developer/flipper of the program requirements (AND BENEFITS! – REDUCED FLOOD INSURANCE PREMIUM AND INCREASED RESALE VALUE!!!!), the program requirements and goals can be better achieved and enforced.
  - **PROACTIVELY** informing property owners of SI requirements is less traumatizing for everyone involved, rather than having to **RETROACTIVELY** require a building be brought up to standard after the project has been done, and at additional expense.
  - See sample Property Owner’s Notice (handout).

LEARN ABOUT THE BENEFITS OF INFORMING  
THE DEVELOPER/PROPERTY OWNER  
**BEFORE** THE WORK COMMENCES

**AN ADDED BENEFIT TO THIS NOTICE IS  
THAT IF YOU DISCOVER SUBSTANTIAL  
IMPROVEMENT HAS OCCURRED AT A  
LATER DATE THEN YOU HAVE THE  
MEANS TO RETROACTIVELY PURSUE  
COMPLIANCE AND ENFORCEMENT.**

# ADMINISTERING AND ENFORCING THE ORDINANCE IS YOUR FRIEND

- Especially for those communities (towns, cities, counties) without a building permit, the ordinance will need to provide you with authority to enter the property to notify, inspect, and permit the activity.
- By developing a SD/SI procedure and incorporating (or referencing) in the community floodplain ordinance/regulations, a property owner is informed of the requirements for buildings in the Special Flood Hazard Area.
- By having this information readily available, the property owner cannot claim ignorance and the ordinance provides enforcement of this provision.

# **WHAT TO DO IF YOUR COMMUNITY DOES NOT HAVE A BUILDING DEPARTMENT AND/OR BUILDING PERMIT – AGAIN, THE ORDINANCE IS YOUR FRIEND**

There are actually three things that are critical:

1. The **ORDINANCE** will need to provide you with authority to enter the property to notify, inspect, and permit the activity.
2. **ROUTINE MONITORING OF THE FLOODPLAIN** (DRIVE, FLOAT, FLY)
3. **PROPERTY OWNER NOTIFICATION** THAT THEY ARE LOCATED IN THE SFHA AND THERE ARE PROGRAM REQUIREMENTS THAT HAVE TO BE MET. Regular, documented notices will provide you with retroactive enforcement authority.

# CONSEQUENCES FOR **COMMUNITY** NON-COMPLIANCE

## PROBATION

- \$50 SURCHARGE TO ALL FLOOD INSURANCE POLICIES
- THE COMMUNITY IS GIVEN THE OPPORTUNITY TO DEVELOP AND IMPLEMENT A CORRECTIVE ACTION PLAN. IF THEY DON'T DO BOTH THEN.....

## SUSPENSION

- NO NEW POLICIES CAN BE WRITTEN
- EXISTING POLICIES CANNOT BE RENEWED
  - CLAIMS CAN STILL BE MADE
- LOSS OF ELIGIBILITY OF CERTAIN FEDERAL MONIES (AND POSSIBLE State FUNDING INELIGIBILITY)
- ANY VIOLATIONS WILL NEED TO BE CORRECTED BEFORE RETURNING TO THE PROGRAM

# **COMPONENTS**

## **OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

- 1. REVIEWING YOUR ORDINANCE**
- 2. NOTIFYING PROPERTY OWNERS**
- 3. REQUIRING FLOODPLAIN DEVELOPMENT PERMIT**
- 4. IDENTIFYING OCCUPANCY TYPES**
- 5. ESTABLISHING THE SI PERIOD**
- 6. MAKING THE DETERMINATION**

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **REVIEWING YOUR ORDINANCE**

### Definitions

- Substantial Damage (SD)
- Substantial Improvement (SI)
- Cumulative SI (optional, but strongly encouraged!)
- Rehabilitation
- Reconstruction
- Restoration
- Repair
- Maintenance
- Market value

# COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE

## REVIEWING YOUR ORDINANCE

### Tools to assist the FPA in discovering activities in the SFHA include:

- Septic permit application (new or expansion)
- GIS – new address
- Zoning change application – single family property to multifamily or commercial
- Neighbor complaint
- Electrical permit (there's a website!)
- Drive, float, or fly (i.e., **ROUTINE MONITORING!!!!!!!!!!!!**)
- **PROPERTY SALES!**
  - Sales descriptions that say things like: “totally remodeled” are a clue.
- **TAX ASSESSOR**
  - A large leap in property taxes is another clue that something may have happened.

**COMPONENTS**  
**OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**  
**NOTIFYING PROPERTY OWNERS**

**AN ADDED BENEFIT TO THIS  
NOTICE IS THAT IF YOU DISCOVER  
SUBSTANTIAL IMPROVEMENT HAS  
OCCURRED AT A LATER DATE THEN  
YOU HAVE THE MEANS TO  
RETROACTIVELY PURSUE  
COMPLIANCE AND ENFORCEMENT.**

# **COMPONENTS**

## **OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

### **FLOODPLAIN DEVELOPMENT PERMIT**

REQUIRING a floodplain development permit which should include inspections/verification. SD/SI determinations would start with your floodplain development permit and be supported by your ordinance.

*A well thought out process/procedure will provide both the floodplain administrator and property owner with actions that have to be taken and standards that have to be met.*

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **OCCUPANCY TYPES**

IDENTIFYING occupancy types and SI application

- **ELEVATION AND/OR WET FLOODPROOFING**
  - Residential – single family
  - Residential – 2-4 family buildings
  - Residential – other (apartment building, dormitory, assisted living facility, etc.)
  - Mixed Residential
- **DRY FLOODPROOFING, ELEVATION AND/OR WET FLOODPROOFING**
  - Non-Residential (commercial building, warehouse, business)

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **ESTABLISHING THE START OF SI PERIOD**

ESTABLISHING when the SI period starts  
(for calculations and determination)

**Cumulative SI?**

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **MAKING THE DETERMINATION**

**DOCUMENTING the activities  
that are considered eligible for  
Substantial Improvement (SI) determination.**

(FEMA has already developed a list of types of activities; see attached).

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **MAKING THE DETERMINATION**

**Establish the value of the project** – includes materials, labor, utility service elements, built-in appliances, built-in cabinetry or other permanent features, and contractor overhead and profit.

- **Materials should be valued at fair market value, even if donated, re-used, or recycled.**
- **Owner labor, volunteer or otherwise, should be valued at minimum wage or fair market value (but not less than minimum wage).**

# **COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE**

## **MAKING THE DETERMINATION**

### **Determine the market value of the BUILDING**

(does not include value of land, landscaping, paving, fencing, or accessory buildings)  
thru tax assessor's office or licensed appraiser (at owners expense).

***NOTE: MARKET VALUE IS NOT THE SAME AS REPLACEMENT COST  
(THE COST TO REBUILD THE BUILDING).***

# COMPONENTS OF A SUBSTANTIAL IMPROVEMENT PROCEDURE

## MAKING THE DETERMINATION

Calculate the substantial improvement ratio

$$\frac{COST\ OF\ IMPROVEMENTS}{MARKET\ VALUE} * 100 = SI\%$$

- IF SI% <= 40, THEN PROPOSED PROJECT IS NOT SI (floodplain permit still required??)
- **IF SI% IS GREATER THAN 40 AND LESS THAN 50**, THEN IT IS **RECOMMENDED** THAT THE FPA HAVE THE PROPERTY OWNER SIGN AN OWNER IMPROVEMENT/REPAIR AFFIDAVIT TO ENSURE THE PROJECT IMPROVEMENTS ARE FULLY DOCUMENTED (AND THERE WAS NO “ACCIDENTAL” SCOPE CREEP THAT PUSHED THE PROJECT OVER 50%).
- IF SI% >= TO 50, THEN THE PROJECT IS SUBSTANTIAL IMPROVEMENT.

# **EXERCISE**

REFER TO HANDOUT

WORK TOGETHER AS A TABLE TO ANSWER QUESTIONS AND BE PREPARED TO ANSWER.