



## MCHENRY COUNTY 50% RULE SUBSTANTIAL IMPROVEMENT OR SUBSTANTIAL DAMAGE

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### NOTICE TO PROPERTY OWNERS

*Adding on, renovating, remodeling, repairing or rebuilding your home?  
Here's information **YOU** need to know about the "50% Rule".*

If your structure has experienced substantial damage, there are regulations that may affect the reconstruction or use. If your structure is nonconforming or contains a nonconforming use, the regulations within the Zoning Ordinance may affect how you rebuild or whether the nonconforming use can continue on the property. If your structure is below the 100-year flood elevation, there are flood damage prevention regulations that may affect how you remodel, renovate, or add on to your building. This is required by McHenry County and the National Flood Insurance Program to protect lives and investment from future flood damages. The County must adopt and enforce these laws in order for federally-backed flood insurance to be made available to residents and property owners.

### SAVE YOURSELF TIME AND MONEY! PLEASE READ THE FOLLOWING INFORMATION:

**NONCONFORMING STRUCTURES OR USES** means that the structure or use existed lawfully or was lawfully permitted but no longer meets the requirements of the current zoning ordinance. Some examples of nonconformities may include, but are not limited to; setbacks, height, or residential principal uses within business zoning districts.

**SUBSTANTIAL DAMAGE** means damage or destruction, regardless of cause, sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. All labor and materials must be included in this determination. For nonconforming structures or uses the 50 percent is calculated for each occurrence. For structures within the floodplain the 50 percent is calculated cumulatively during a 5-year period. *Note: for structures within the floodplain that the cost to repair the structure must be calculated for fully repairing the building to its before-damage condition, even if the owner elects to do less.*

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, rehabilitation, addition, or other construction of a structure (including materials and labor), whereby the cumulative percentage cost of the construction during a 5-year period would equal or exceed 50 percent of the market value of the current structure before the improvement or repair is started. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

Our community, following McHenry County regulations and the National Flood Insurance Program requirements, has the responsibility to determine "substantial damage" and "substantial improvement", and has implemented the procedures on the following pages to do so.

**BUILDING MARKET VALUE:** The market value or replacement cost will be estimated by using three (3) times the current tax assessed value of the subject structure (excluding the land and exterior construction). A certified appraisal prepared by a state licensed appraiser, completed within the last two years, and based on the comparable sales method may be used to determine the value of the structure prior to any construction or damages. The building value must be fairly depreciated to reflect the age of the building and the deterioration of building components. Replacement costs may only be used if properly depreciated. For nonconforming structures and uses, other methods may be used if determined to be acceptable by the County.

**PROCESS:**

Obtain and submit a detailed and complete the Estimated Cost Form for the addition, remodeling, reconstruction or for repair of your structure. The owner and contractor must sign an affidavit indicating that the cost estimate submitted includes all damages or all construction to your building, not just structural. The signed contract document must be submitted with your detailed cost estimate. If the owner is acting as their own contractor, the owner is responsible for submitting the cost estimate and providing documentation, including subcontractor bids, to document the cost estimate.

We will evaluate the cost of construction or repairs based on recognized cost estimating manuals and determine if they are complete and accurate and reflect current construction market cost for labor and supplies. For damage repairs, pre-damage prices and rates will be utilized. The cost of construction or repairs does not include items not considered a permanent part of the structure. (i.e., plans, surveys, permits, see list of "Items to be Excluded" on the following page).

The Building Market Value will be determined using the current tax assessed value of the structure and a determination form will be filled out based on the information explained above. This form will need to be signed and notarized with confirmation of your acceptance of the determination.

If you do not accept the determination you then have the option of submitting a certified appraisal prepared by a state licensed appraiser, completed within the last two years, and based on the comparable sales method may be used to determine the value of the structure prior to any construction or damages.

If the determination shows that the proposed damages or construction are greater than 50% of the market value of the structure it may impact your ability to reconstruct the structure as originally proposed, or the ability to continue a nonconforming use (more detail on the following page).

**FOR STRUCTURES WITHIN THE FLOODPLAIN:**

If a building is determined to be "substantially damaged" or "substantially improved", it must be brought into compliance with the Building Protection Standards of the McHenry County Stormwater Management Ordinance (SMO).

**FOR STRUCTURES THAT ARE NONCONFORMING OR CONTAIN A NONCONFORMING USE:**

In the event that any nonconforming structure or any structure that is used, in whole or in part, for a nonconforming use, is damaged or destroyed in the extent of 50 percent or more of its market value at that time, then the nonconforming status has been lost and the structure cannot be restored or rebuilt unless the structure is made to conform to all regulations of the zoning district in which it is located, and only uses that conform to all regulations of the zoning district would be allowed to continue. You also have the option to go through the zoning petition process to request a variation, reclassification, or conditional use permit, if applicable.

**IMPORTANT NOTE ON DONATED MATERIALS AND VOLUNTEER LABOR:**

The value placed on materials should be equal to the actual or estimated fair market cost of all materials to be used. Where materials or servicing equipment are donated or discounted below normal market values, the value should be adjusted to an amount equivalent to that estimated through normal market transaction.

Self or Volunteer Labor: The value placed on labor should be equal to the actual or estimated labor charge for repairs of all damages sustained the structure. Where non-reimbursed (volunteer) labor is involved, the value of the labor should be estimated based on applicable published hourly wage scales, for example using prevailing wages for the type of construction work to be completed.

**ITEMS TO BE EXCLUDED**

- Plans and specifications
- Survey costs
- Permit fees
- Driveways
- Demolition
- Debris removal (e.g., removal of debris from building or lot, dumpster rental, transport fees to landfill and landfill tipping fees), and clean-up (e.g., dirt and mud removal, building dry out, etc.)
- Fences
- Landscaping
- Sidewalks
- Yard lights
- Landscape irrigation systems
- Items not considered real property such as: throw rugs (carpeting over finished floors), furniture, refrigerators, appliances which are not built-in, etc.
- Maintenance activities that do not require building permits and do not constitute a substantial improvement

**ITEMS REQUIRED TO EVALUATE YOUR APPLICATION**

**APPLICANT MUST SUBMIT ALL OF THE FOLLOWING** (please check off each item):

\_\_\_\_\_ 1. **Estimated Cost Form** of reconstruction/improvement form (included in package) and all required backup. Include subcontractor's bids and itemized cost lists. One (1) Estimated Cost Form is shall be submitted for each impacted structure. *Note: separate Estimated Cost Forms may need to be submitted if you are repairing and improving a structure that is located in a floodplain and is also a nonconforming structure or contains a nonconforming use. The Stormwater Management Ordinance and the Zoning Ordinance have different requirements to make a final determination.*

\_\_\_\_\_ 2. **Property Owner's Substantial Damage or Substantial Improvement Affidavit** signed, notarized and dated (included in package).

\_\_\_\_\_ 3. **Contractor(s) Substantial Damage or Substantial Improvement Affidavit** signed, notarized and dated (included in package).

**AT THE TIME STAFF HAS COMPLETED ITS REVIEW OF THE SUBMITTED MATERIAL**

\_\_\_\_\_ 1. **Determination Form** signed, notarized and dated (to be provided by staff once review is complete)

ESTIMATED COST FORM			
STRUCTURAL ELEMENTS	LABOR	MATERIAL	TOTAL COST
<b>EXCAVATION</b> (Ex: prep work, gravel base)			
<b>FOUNDATION</b> (Ex: monolithic slabs, piers, spread footing, CMU, ICF, wood)			
<b>DAMPROOFING, WEATHERPROOFING, TILE, FOUNDATION INSULATION</b>			
<b>FLOOR SYSTEMS</b> (Ex: trusses, lumber, steel, concrete, in-floor heat, vapor barrier)			
<b>BEAMS</b> (Ex: steel, wood, pre-engineered, columns)			
<b>WALLS, FRAMING (EXTERIOR &amp; INTERIOR)</b> (Ex: wood, metal, sheathing)			
<b>CEILING, RAFTERS, TRUSSES</b>			
<b>ROOFING SYSTEM</b> (Ex: sheathing, felt, ice & water shield, asphalt, wood shake, tile, clay, metal, shingling, venting)			
<b>EXTERIOR WALL COVERING</b> (Ex: lap siding, vinyl, aluminum, brick, stucco, house wrap shutters)			
<b>WINDOWS</b> (Ex: escape window, double-hung, casement, slider, awning)			
<b>WOOD DECKS (EXTERIOR &amp; INTERIOR)</b>			
<b>INSULATION</b> (Ex: walls, floors, roof)			
<b>HARDWARE</b> (Ex: door hardware, nails, screws, brackets, handrails)			
INTERIOR FINISH ELEMENTS	LABOR	MATERIAL	TOTAL COST
<b>FLOORING</b> (Ex: tile, linoleum, stone, laminate, wood, carpet, sub-flooring)			
<b>WALL FINISHES</b> (Ex: drywall, plaster, stucco, paneling, stone, paint, tape, mud)			
<b>BUILT-INS, CABINETRY</b> (Ex: bookcases, entertainment centers, kitchen cabinets, countertops, built-in stove, vanities, furniture)			
<b>DOORS (EXTERIOR &amp; INTERIOR)</b> (Ex: side-hinged, sliding, pocket, bi-fold)			
<b>HARDWARE</b> (Ex: interior door hardware, screws, nails, handrails)			
UTILITY & SERVICE EQUIPMENT	LABOR	MATERIAL	TOTAL COST
<b>HVAC</b> (Ex: furnace, a/c unit, baseboard heat, radiant heat, duct-work venting, registers, material associated with system)			
<b>PLUMBING</b> (Ex: fixtures, faucets, tubs, showers, toilets, sinks, material, venting, water heater, sump & ejector pumps)			
<b>ELECTRICAL</b> (Ex: panel, wiring, boxes/outlets, switches, light fixtures, fans, raceway, etc.)			
<b>CENTRAL VACUUM SYSTEM</b>			
<b>WATER FILTRATION CONDITIONING OR RECIRCULATING SYSTEM</b>			
<b>FIREPLACE</b> (Ex: hearth, stone, brick, chimney, vent, mantel)			
OTHER	LABOR	MATERIAL	TOTAL COST
<b>TOTALS</b>			

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**PROPERTY OWNER'S AFFIDAVIT**

Permit Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

Property Owner's Name: \_\_\_\_\_

Property Owner's Address: \_\_\_\_\_

Property Owner's Phone Number: \_\_\_\_\_

Property Owner's Email Address: \_\_\_\_\_

I hereby attest that the list of work and cost estimate submitted with my Substantial Damage or Substantial Improvement Application reflects **ALL OF THE WORK TO BE CONDUCTED** on the subject structure including all additions, construction and repairs and, if the work is the result of Substantial Damage, this work will return the structure at least to the "before damage" condition and bring the structure into compliance with all applicable codes. Neither I nor any contractor or agent will make any repairs or perform any work on the subject structure other than what has been included in the attached list.

\_\_\_\_\_  
Property Owner's Signature

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

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## CONTRACTOR'S AFFIDAVIT

Permit Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

Contractor's Name: \_\_\_\_\_

Contractor's Company Name: \_\_\_\_\_

Contractor's Address: \_\_\_\_\_

Contractor's Phone Number: \_\_\_\_\_

Contractor's Email Address: \_\_\_\_\_

I hereby attest that I, or a member of my staff, personally inspected the subject property and produced the attached itemized list of repairs, reconstruction and/or remodeling which are hereby submitted for a Substantial Damage or Substantial Improvement Review. The list of work contains **ALL OF THE WORK TO BE CONDUCTED** on the subject property. If the property sustained Substantial Damage, this list of work will return the structure to at least its condition prior to damage and bring the structure into compliance with all applicable codes. I further attest that all additions, construction or repairs proposed for the subject building are included in this estimate and that neither I nor any contractor or agent representing me will make any repairs or perform any work on the subject structure other than what has been included in the attached list.

\_\_\_\_\_  
Contractor's Signature

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

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**DETERMINATION**

Permit Number: \_\_\_\_\_

Owner or Contractor's Cost Estimate: \_\_\_\_\_

Staff Calculation of Cost Estimate: \_\_\_\_\_

Building Market Value: \_\_\_\_\_

Percentage of Damage or Improvement: \_\_\_\_\_

For Properties in a Floodplain:

Base Flood Elevation: \_\_\_\_\_ Flood Zone: \_\_\_\_\_

Cumulative Percentage of Construction within 5 Years (including current improvement): \_\_\_\_\_

- I accept the estimated cost of construction as a fair cost of the repair/improvement of my home.
- I accept the estimated market value from the tax assessment.
- I do not accept the estimated market value from the tax assessment and will submit an appraisal report of my property from a licensed appraiser.

\_\_\_\_\_  
Property Owner's Signature

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC