

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the addition of Section 3606-01 to Subchapter G of Chapter 3600 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding alteration applications, determinations of market value, and substantial improvements as they pertain to flood resistant construction.

This rule was first published on April 10, 2008 and a public hearing thereon was held on May 13, 2008.

Dated: June 5, 2008
New York, New York



Robert LiMandri
Acting Commissioner

Section 1. Chapter 3600 of title 1 of the Rules of the City of New York is amended by adding a new subchapter G to read as follows:

Subchapter G
Flood-resistant Construction

§3606-01 Alteration applications; determinations of market value and substantial improvement.

(a) Scope. This rule provides application submission requirements for alterations to structures located in areas of special flood hazard, provides the method for determining the market value of a structure, and provides the method for determining whether repairs, reconstructions, rehabilitations, additions or improvements constitute a substantial improvement.

(b) References. See Section BC G201.2 (definitions of market value of structure, substantial damage, and substantial improvement) and Section 28-104.7.11.

(c) Applicant’s statement. Applicants shall include in every alteration application the statement: “Work proposed in this application (is/is not) included in a substantial improvement as defined by Section BC G201.2 and 1 RCNY 3606-01.”

(d) Calculation of market value. To determine the market value of a structure, the applicant shall use either of the two calculation methods below:

(1) Assessment roll option. Applicants shall utilize dollar amounts provided by the Department of Finance’s most recent “Final Assessment Roll” by multiplying the total market value by the ratio (market value of structure to total market value):

$$\frac{\text{Market Value of Structure}}{\text{Market Value of Structure}} = \frac{\text{Estimated Market Value (Total)}}{\text{Estimated Market Value (Total)}} \times \frac{\text{Actual AV (Total)} - \text{Actual AV (Land)}}{\text{Actual AV (Total)}} \quad \text{(See Example 1)}$$

or

$$\frac{\text{Market Value of Structure}}{\text{Market Value of Structure}} = \frac{\text{Estimated Market Value (Total)}}{\text{Estimated Market Value (Total)}} \times \frac{\text{6-20\% Limitation (Total)} - \text{6-20\% Limitation (Land)}}{\text{6-20\% Limitation (Total)}} \quad \text{(See Example 2)}$$

or

$$\frac{\text{Market Value of Structure}}{\text{Market Value of Structure}} = \frac{\text{Estimated Market Value (Total)}}{\text{Estimated Market Value (Total)}} \times \frac{\text{8-30\% Limitation (Total)} - \text{8-30\% Limitation (Land)}}{\text{8-30\% Limitation (Total)}} \quad \text{(See Example 3)}$$

or, at the option of the owner, or where the assessment roll method would not reflect the market value of structure because more than one building occupies a single tax lot,

(2) Appraisal option. Applicants shall utilize dollar amounts obtained from an appraisal performed by a New York State licensed Real Estate Appraiser and performed within one year of the filing of the alteration application:

$$\frac{\text{Market Value of Structure}}{\text{Appraised Market Value (Land and Structure)}} = \frac{\text{Appraised Market Value (Land)}}{\text{Appraised Market Value (Land)}}$$

(e) Calculation of cost. To determine the cost of repairs, reconstructions, rehabilitations, additions or improvements of a building or structure, the applicant shall add together:

(1) The costs for the given application, regardless of the time it takes to complete and sign-off the work, plus

(2) The cost of all other work to be performed during the same period, including work filed under separate application(s) and including any minor alterations and ordinary repairs.

(f) Determination of substantial improvement. Work shall be deemed a substantial improvement if the cost as calculated in paragraph (e) equals or exceeds 50% of the market value of structure as calculated in paragraph (d). A substantial improvement shall also include work performed to a structure that has sustained substantial damage, as such term is defined in Section BC G201.2. In determining whether a structure has sustained substantial damage, the market value shall be calculated in accordance with paragraph (d) of this rule.

(g) Application for construction document approval. For an alteration exceeding \$40,000 that is not a substantial improvement, the applicant shall include calculations of the market value of structure and costs as outlined in this rule, and shall include any relevant backup documentation including either the online printout of the Department of Finance Final Assessment Roll or a copy of the real estate appraisal.

(h) Examples of calculation of market value. The Assessment Information for the following examples is based on information from the Final Assessment Roll as provided by the Department of Finance.

(1) Example 1; Actual A/V. For the purposes of this example, the assessed values for both the land and the total for the property are indicated as follows:

<u>DESCRIPTION</u>	<u>LAND</u>	<u>TOTAL</u>
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<u>ESTIMATED MARKET VALUE</u>		<u>814,000</u>
<u>ACTUAL AV</u>	<u>135,000</u>	<u>366,300</u>
<u>ACTUAL EX AV</u>	<u>0</u>	<u>136,080</u>
<u>TRANS AV</u>	<u>135,000</u>	<u>363,150</u>
<u>TRANS EX AV</u>	<u>0</u>	<u>136,080</u>

The example property assessment roll indicates that the ESTIMATED MARKET VALUE is \$814,000 for both the land and the structure. Using the values in the prescribed formula, the market value of only the structure is calculated as follows:

$$\begin{aligned}
 \frac{\text{Market Value of Structure}}{\text{Estimated Market Value (Total)}} &= \times \frac{\text{Actual AV (Total)} - \text{Actual AV (Land)}}{\text{Actual AV (Total)}} \\
 \frac{\text{Market Value of Structure}}{\text{Estimated Market Value (Total)}} &= \times \frac{\$814,000}{366,300 - 135,000} \\
 &= \times \frac{\$814,000}{231,300} \\
 &= \times 63.15\% \\
 &= \underline{\$514,041}
 \end{aligned}$$

(2) Example 2; 6-20% Limitation. For the purposes of this example, the assessed values for both the land and the total for the property are indicated as follows:

<u>DESCRIPTION</u>	<u>LAND</u>	<u>TOTAL</u>
<u>ESTIMATED MARKET VALUE</u>		<u>144,000</u>
<u>6-20% LIMITATION</u>	<u>2,040</u>	<u>5,702</u>
<u>ACTUAL EX AV</u>	<u>1,570</u>	<u>1,570</u>

The example property assessment roll indicates that the ESTIMATED MARKET VALUE is \$144,000 for both the land and the structure. Using the values in the prescribed formula, the market value of only the structure is calculated as follows:

$$\begin{aligned}
 \frac{\text{Market Value of Structure}}{\text{Estimated Market Value (Total)}} &= \times \frac{\text{6-20\% Limitation (Total)} - \text{6-20\% Limitation (Land)}}{\text{6-20\% Limitation (Total)}} \\
 \frac{\text{Market Value of Structure}}{\text{Estimated Market Value (Total)}} &= \times \frac{\$144,000}{5,702 - 2,040} \\
 &= \times \frac{\$144,000}{3,662} \\
 &= \times 64.22\% \\
 &= \underline{\$92,481}
 \end{aligned}$$

(3) Example 3; 8-30% Limitation. For the purposes of this example, the assessed values for both the land and the total for the property are indicated as follows:

<u>DESCRIPTION</u>	<u>LAND</u>	<u>TOTAL</u>
<u>ESTIMATED MARKET VALUE</u>		<u>391,000</u>
<u>8-30% LIMITATION</u>	<u>13,050</u>	<u>30,427</u>
<u>ACTUAL EX AV</u>	<u>0</u>	<u>0</u>

The example property assessment roll indicates that the ESTIMATED MARKET VALUE is \$391,000 for both the land and the structure. Using the values in the prescribed formula, the market value of only the structure is calculated as follows:

$$\begin{array}{rclcl}
 \text{Market Value of Structure} & \equiv & \text{Estimated Market Value (Total)} & \times & \frac{\text{8-30\% Limitation (Total)} - \text{8-30\% Limitation (Land)}}{\text{8-30\% Limitation (Total)}} \\
 \text{Market Value of Structure} & \equiv & \$391,000 & \times & \frac{30,427 - 13,050}{30,427} \\
 & \equiv & \$391,000 & \times & 57.11\% \\
 & \equiv & \$223,302 & &
 \end{array}$$

STATEMENT OF BASIS AND PURPOSE

The foregoing rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter, Sections 28-104.7.11 of the Administrative Code, and Section G201.2 (definition of market value of structure) of the New York City Building Code.

Article 10 of Chapter 1 of Title 27 of the 1968 Building Code utilizes the term “market value” with regard to determining applicability of flood zone construction standards to substantial improvements and substantial damage to structures. However, Title 27 does not provide a definition of “market value.” The Department clarified the meaning of this term in its Technical Policy and Procedure Notice (TPPN) # 1 of 2004.

Section G 201.2 of the 2008 Building Code does provide a definition of “market value of structure.” However, this definition does not provide sufficient details for one to determine the market value in a specific instance. Instead, the definition refers to rules to be promulgated by Commissioner of Buildings.

This rule provides the details necessary to determine the market value of structure for specific instances, maintaining the current standards established in TPPN 1/2004. This rule will ensure the City’s continued compliance with the National Flood Insurance Program as mandated by Section 36.0105 of the New York State Environmental Conservation Law by providing standards consistent with interpretations by the Federal Emergency Management Agency.