

# Upper Darby Township Floodplain Management Administrative Procedures: Permitting, Substantial Improvement and Substantial Damage

## **Purpose and Use**

The purpose of this document is to outline how Upper Darby Township will administer and implement steps to make Substantial Improvement/Substantial Damage (SI/SD) determinations. Communities that participate in the National Flood Insurance Program (NFIP) must adopt and enforce floodplain management regulations that include requirements for SI/SD structures, as defined in 44 CFR 59.1.

Improvements to structures in the regulated floodplain that equal or exceed 50% of the market value, including improvements undertaken after being substantially damaged during a disaster, must comply with local floodplain management regulations. This often means that structures cannot simply be rebuilt to pre-damage conditions. Local officials must ensure that all permits issued for reconstruction comply with local regulations.

This document captures all procedures in one easy, accessible place to make Upper Darby Township more prepared if disaster strikes. This includes plans, procedures, and processes for actions taken pre-disaster (“blue skies”), immediately following a disaster event, and post-disaster. This document serves as a plan to be used in both day-to-day SI/SD operations as well as all disaster events, to include all types of hazards (flooding, wind, fire, etc.), small and large events, and presidential-declared or non-declared events.

This plan was compiled and prepared by Upper Darby Township.

## **Regulations**

SI/SD structures in Upper Darby Township are defined and regulated according to the following regulations and legislation. These should be referenced to determine the definition of SI/SD and any legal requirements pertaining to post-disaster permitting.

Code/Ordinance	Title of Regulation(s)	Document location or link	Responsible Department/POC	Effective Date
Building Codes	2018 IBC: 104.2.1 2018 IRC: R105.3.1	<a href="#">Upper Darby, Pennsylvania - Licenses &amp; Inspections FAQs</a> <a href="#">2018 International Codes Flood Provisions (fema.gov)</a>	Department of Licenses and Inspections	2/14/2022
Zoning/Land Use Ordinance	Chapter 305: Floodplain Management	<a href="#">Township of Upper Darby, PA Floodplain Management (ecode360.com)</a>	Department of Licenses and Inspections - Planning and Zoning	09/16/2015

## **Appeals/Variiances**

Upper Darby Township's provisions that regulate the appeals process for development in the floodplain and/or SI/SD in its regulations. Due to Upper Darby Township's adoption of floodplain Ordinance as well as the UCC Building Codes there are two appeal boards for these regulations:

- Board of Zoning Appeals- Variances and appeals of requirements of the Floodplain Management Ordinance are heard by the Upper Darby Township Zoning hearing Board.
  - More information (including Appeals Form): Zoning Hearing Board
    - [Upper Darby, Pennsylvania - Zoning](#)
- Board of Building Appeals – appeals based on Upper Darby Township's flood provisions in the International Building Codes and will be heard through the Delaware County Board of Building Appeals.
  - More Information: [Board of Building Appeals](#)

### **Method for Determining Market Value**

Upper Darby Township has a methodology for determining the market value of substantially improved structures. The primary method used for determining market value of substantially improved structures is:

- Township Zoning Officer will request the building value from the Delaware County Assessor's Office or request an appraisal from the property owner/applicant
- If the applicant would like to contest the Assessment Building Value, then they may procure their own appraisal.
  - The appraisal must meet the requirements in Section 4.5.1 of [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#)
  - Appraisals shall be within 6 months of application

### **Method for Determining Cost of Improvement**

Upper Darby Township has a methodology for determining the cost of improvement or repair of structures. The primary method used for estimating cost of improvement is as follows:

- Zoning Officer will utilize the most recent Building Valuation Data - ICC (iccsafe.org) to determine a value of work based on building types and square footage impacted by proposed work. Optionally, the Zoning officer can request a detailed cost estimate from the applicant.
- If the property owner/applicant does not agree with the value of work estimated by the Township, then the owner/applicant must provide a detailed cost estimate prepared by a professional/licensed professional.
  - To include and exclude items found on: 4-5 to 4-7 [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#)
- Conditions:
  - Phased work and/or multiple permits
    - Multiple Permits: The Township issues separate mechanical, electrical, plumbing, and building permits. Therefore the applicant must provide the combined value of all the proposed work to make a substantial improvement/damage determination, regardless of the number of permits issued.
    - Phased Improvements: The term "phased improvement" refers to a single improvement that is broken into parts. For a number of reasons, an

applicant may wish to schedule anticipated improvements over a period of time, and they may request separate permits for each phase. The floodplain administrator, at their discretion, will ensure that phased improvements do not circumvent the substantial improvement requirements.

### **Method for Determining Cost of Repair/Damage**

Upper Darby Township has a methodology for determining the cost of improvement or repair of structures. The primary method used for estimating cost of improvement is as follows:

- The Zoning Officer will utilize the most recent Building Valuation Data - ICC ([iccsafe.org](http://iccsafe.org)) to determine a value of work based on building types and square footage impacted by proposed work.
- If the property owner/applicant does not agree with the value of work from the township, then the owner/applicant must provide a detailed cost estimate prepared by a professional/licensed professional.
  - To include and exclude items found on: 4-5 to 4-7 [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#)

### **Permit Process - for Development in the Floodplain (including SI)**

Upper Darby Township has a process for all development in the floodplain, including existing structures that must be assessed for substantial improvement. The process is as follows:

1. All development in the floodplain requires a permit to be obtained through Upper Darby Planning and Zoning.
  - See here for a [Floodplain Permit Application](#)
  - If a building permit is submitted without knowing the floodplain implications, then the application will be denied and need to be resubmitted with [Floodplain Permit Application](#).
2. Upper Darby's Zoning Officer will review the permit and determine if the proposed work constitutes Substantial Improvement.
  - A [Substantial Improvement Worksheet](#) will be done for any building in the floodplain making improvements.
  - If it is determined that the improvement on the structure exceeds the value of the structure by 50%, then it will be deemed substantially improved and must meet all current floodplain regulations as set forth in the Upper Darby Floodplain Ordinance and Building Codes.
    - The Floodplain Administrator or their designee will issue a [Notice of Substantial Improvement Determination](#) Letter.
      - Applicants will need to resubmit building applications to meet the current floodplain regulations for a substantial improvement found in Upper Darby Township's Floodplain Ordinance and Building Codes.
      - If the applicant needs additional information or would like to contest the market value (tax value) or improvement value (cost per square foot), then they can schedule a meeting with the Zoning Administrator and/or submit the information following the policy above.
        - Zoning Officer

- Joshua Chast
  - [ichast@upperdarby.org](mailto:ichast@upperdarby.org)
  - 484-684-4853
- If it is determined that the improvement on the structure does NOT exceed the value of the structure by 50%, then it will be deemed non-substantial improvement. The proposed work can proceed as proposed through the permitting process. But if the scope, materials, or budget changes, then a new or revised permit application must be submitted.

### **Substantial Damage – Procedures**

When a flood disaster strikes there are many damage assessments that occur by a variety of federal, state, local, and other organizations to determine response and recovery needs. However, Substantial Damage (SD) Inspections are required by locally adopted regulations, usually found in the building codes, that require the Community's Building Official to make determination of whether a structure is damaged more than 50% of its market value. These SD inspections are required to occur on all structures in the Special Flood Hazard Area (SFHA) and occur when any damage happens. This could be damage attributed to flood, wind, tornado, earthquake, tree, vehicle, fire, etc. Below are the procedures that Upper Darby Township follows to implement Substantial Damage Determinations.

#### **1. Impact Area(s)**

A process for determining the impact area post-disaster can be found here:

- For flood damage:
  - Public Works and Licenses and Inspection department staff will report damage to Zoning Officer or Building Official
  - Monitor local news reports and National Weather Service [7-Day Forecast 39.95N 75.3W \(weather.gov\)](#)
  - High water marks: If available, may be maintained by the Zoning Officer
  - Preliminary Damage Assessment (PDA)
    - Delaware County Emergency Services Department:
      - 360 N. Middletown Road, Lima, PA 19063
      - Phone: 610-565-8700 Fax: 610-892-9583
    - Upper Darby Township Contact:
      - Kevin Colgan
      - 100 Garrett Road
      - 610-322-5096
    - For the purposes of SD Inspections during a wide-scale event, inspectors may prioritize any structure categorized as major or destroyed for SD inspections. But follow-up with other properties as time allows. PDA are generally categorized by:
      - Affected – property damage due to floods (no flood waters in structure)
      - Minor - less than 18" of water on lowest living floor (below receptacles)

- Major - more than 18" of water on lowest living floor (above receptacles)
- Destroyed – structures completely flooded up to ceiling, moved off foundation, not on site anymore
- Remember, there are a variety of distinct post-disaster assessments/inspections other than SD, and other teams should be coordinated as needed.
- Flood insurance claims information: If available
- For fire damage:
  - The Upper Darby Township Fire Department will send the incident report to the Director of Licenses and Inspection or to the Zoning Officer.
- For other damage, not limited to wind, vehicles, trees, etc., the Code Enforcement Officer(s) will notify the Director of Licenses and Inspections or the Zoning Officer.

## 2. Inspections

Upper Darby's inspections will be conducted by Township Building Code/Inspection staff - when safe- to inspect damaged properties and collect SD data. If needed, the Township will enter into a contract with it's 3rd party engineer to assist in SD inspections. Inspections will be documented on a [SD Worksheet](#)

## 3. SD Determinations

After staff have conducted inspections and collected data, the Building Official will make SI/SD determinations, and document on the [SD Worksheet](#). The methods above (Method to Determine Market Value and Method to Determine Value of Improvement/Damage) will be used to determine the market value and value of damage. On the worksheet, the Building Official will calculate the % damaged, and maintain record in property file.

## 4. Issuing Determinations

Communicating SI/SD determinations to affected property owners is required by locally adopted regulations. Determinations are a necessary step to issuing permits for compliant rebuilding and are a requirement for administering a compliant floodplain management program in Upper Darby Township. In flood events SD Determinations are needed by property owners who maintain flood insurance through the NFIP and would like to access [Increased Cost of Compliance \(ICC\)](#) coverage.

Upper Darby Township's procedure for communicating the results of the SI/SD determinations to structure owners. The following methods are utilized:

- Letter to structure owners/residents
- Paper handed directly to the structure owner/resident (if possible)
- Post the determination at a physical property

Letter templates and documents used to notify residents of determinations can be found here:

- [Notice of Substantial Damage](#)
- [Notice of Non-Substantial Damage](#)

## **5. Appeals and Variances**

Upper Darby Township has a process and other supporting materials for receiving, reviewing, and making decisions on appeals or requesting variances. The process and materials can be found here:

- If a property owner receives a notice of “Substantial Damage” or “Non-Substantial Damage” and disagrees with the market value and/or damage/repair value, you can contact the floodplain administrator to discuss the submission of the following documentation:
  - See above Method for Determining Market Value and Method for Determining Value of Improvement/Damage
- Board of Building Appeals – since SD is in Upper Darby Township’s flood provisions and in the International Building Codes appeals and variances would be submitted to:
  - [Delaware County Board of Appeals](#)

## **6. Permitting for Repairs and Rebuilding**

Issuing permits is a regular part of floodplain management but is especially important following a disaster. Repairing and rebuilding substantially damaged structures in compliance with local regulations is critical to maintaining good standing in the NFIP and protecting structure owners from future disasters. Below is Upper Darby Township’s permitting procedures during blue skies, applicable to substantial improvement projects, and post-disaster/ emergency permitting procedures. For more information on permitting, reference the [FEMA SI/SD Desk Reference](#).

- See above “Permit Process – for Determining Substantial Improvement” for how to repair and rebuild post disaster.
  - [Upper Darby Township Floodplain Permit webpage](#)

## **7. SD Data**

Upper Darby’s Township process for documenting and storing SD determination data can be found here:

- At the Department of Licenses and Inspections, Upper Darby Township will maintain this data (SD Worksheets, Letters, etc.) in its property/inspection records, and will be maintained by the Building Code Official.