

§13-4. Repair or Reconstruction of Nonconforming Structures.

A. Ordinary Repairs and Maintenance. Ordinary repairs and maintenance may be made to a nonconforming Structure.

B. Substantial Improvement. In this section, substantial improvement shall mean any combination of reconstruction, alteration, or improvement to a building, where the permitted improvement equals or exceeds fifty (50) percent of the current market value of the structure before the "start of construction" of the improvement.

C. Substantial Damage. In this section, substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

D. Reconstruction.

1. If a nonconforming Structure is destroyed or damaged by any cause, and the cost of reconstructing the Structure to a condition comparable to its condition immediately prior to the destruction or damage does not exceed fifty (50) percent of the value of the entire Structure before the destruction or damage, then the Structure may be restored to a condition comparable to its nonconforming condition prior to the destruction or damage, provided that a Building Permit is secured and that reconstruction is started within one (1) year from the date of the destruction or damage, and such reconstruction is diligently pursued to completion. Under no circumstances may a nonconforming Structure be enlarged in any exterior dimension or be otherwise made nonconforming to a greater extent or in a differing manner in the process of repair or reconstruction under this subsection.
2. If a nonconforming Structure is destroyed or damaged, and the cost of restoring the Structure to a condition comparable to its condition immediately prior to the destruction or damage exceeds fifty (50) percent of the value of the entire Structure before the destruction or damage, the Structure shall not be restored unless the Structure as restored, and the use thereof, will thereafter conform to all requirements of the zoning district and applicable flood zone requirements in which it is located and to all applicable requirements of the Alabama Coastal Area Management Plan.
4. **Savings Clause Applicable to Certain Nonconforming Condominiums. Where a legal nonconforming Condominium building or structure is destroyed, it may be reconstructed or restored, subject to the following standards.**
 - a. **A legal nonconforming building or structure damaged or destroyed by any natural disaster or phenomenon including a hurricane, tornado, storm, flood, fire, high water, wind-driven water, tidal wave, or other catastrophic event may be restored or repaired under this Subsection.**
 - b. **A building permit for the repair or restoration shall be issued within five years of the date of the damage.**
 - c. **These savings clause provisions shall be applicable only to legal nonconforming Condominium structures that are located within the Beach Overlay District, the Walking Area Overlay District, and Lagoon Pass Overlay District.**

- d. The cost of restoring the damaged or destroyed structure must exceed fifty percent (50%) of the most current fair and reasonable market value of the structure before its damage.
- e. The damaged or destroyed structure may be reconstructed or restored only in a manner which recreates the same number of dwelling units or lodging units and the same gross floor area contained in the structure on the day before its damage or destruction.
- f. The reconstruction or restoration of a damaged or destroyed structure must in all other respects (setbacks, building height, building coverage, architectural design guidelines, and all other area and dimensional requirements of the Zoning Ordinance) be in compliance with all applicable provisions of this title, and such reconstruction or restoration is subject to all applicable enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes in place at the time of site plan approval application for reconstruction or restoration.

E. Determining Value of Structures. For the purposes of this subsection, the value of an entire Structure before destruction or damage shall be determined as follows:

1. The value of an entire Structure before destruction or damage shall be **determined by the current market value. Market value means the value of the structure (as agreed between a willing buyer and seller), excluding the value of land as established by what the local real estate market will bear. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (actual cash value); or adjusted assessed values.**
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F. Documentation Required for Restoration. For the purposes of this subsection, the cost of restoring the Structure to a condition comparable to its nonconforming condition prior to the destruction or damage shall be determined as follows:

1. At the time application for a Building Permit referable to the restoration work is made, the applicant shall submit, in addition to the documentation otherwise required for the issuance of a Building Permit, the following documentation:
 - a. A certification by the licensed contractor or contractors who will be performing the restoration work, or if there is no contractor on the project, by the permit applicant, that the cost of the restoration work described in the permit application will not exceed the cost declared in the permit application.
 - b. A copy of all documentation relating to **the market value of the Structure.**
2. The certified cost declaration contained in the permit application will be accepted as the cost of restoration unless the Building Official determines that such declaration is materially inconsistent with the **market value**. In such event, the Building Official shall prepare a written determination of the cost of restoration for purposes of this subsection specifying the basis on which such cost of restoration has been determined.

3. In the event changes in the scope of the restoration work necessitated by the discovery of unanticipated damage elements or expense results in an increase in the cost of the restoration work after the submission of a certified cost declaration, a revised certified cost declaration must be filed with the Building Official. If the Building Official determines on the basis of the revised certified cost declaration or on the basis of other information coming to his attention deemed reliable that the cost of the restoration work exceeds **fifty (50)** percent of the value of the entire Structure before destruction or damage, the Building Official shall order the suspension of any Building or other permits issued for the restoration work.