FLOOD ELEVATION FAQs: New Jersey's Emergency Flood Elevation Rule

In order to better protect lives and property following Superstorm Sandy and other major recent flooding events, the state has adopted emergency amendments to New Jersey's Flood Hazard Area Control Act rules that set minimum elevation standards for the reconstruction of houses and buildings in areas that are in danger of flooding. The following FAQs answer some of the most common questions and will help you determine if you need to elevate and get you started if you need to do so.

If your property was not substantially damaged, you do not need to take any action now.

The rule applies to new construction and those property owners whose properties were substantially damaged or are starting new construction. A structure is considered substantially damaged if the cost of restoration equals or exceeds 50 percent of the market value of the structure prior to the damage.

Recent congressional action resulted in significant changes to National Flood Insurance Program rates. Flood insurance costs, which are outside the control of the state, are likely to be much lower for those who elevate using the state's elevation standards.

What does the flood hazard area emergency rule do?

The rule, adopted by emergency action on Jan. 24, requires new and reconstructed buildings to be elevated in accordance with the best available flood mapping. This will help protect people and property during future floods. The emergency rule also adopts a new permit-by-rule so that people reconstructing and elevating buildings utilizing the state's elevation standard will not need to secure a permit from the Department of Environmental Protection, nor pay the fee typically charged for a Flood Hazard Area permit. This will save them time and money while spurring quicker recovery from Sandy.

What are the new elevation standards?

The Department of Environmental Protection (DEP) has determined that the Federal Emergency Management Agency's (FEMA) recently released Advisory Base Flood Elevation (ABFE) maps provide the best elevations to be protective of lives and property and has incorporated them as the new elevation standard for the state. Property owners who have to rebuild because their property is substantially damaged will have to build to the highest available state or FEMA elevation level. In most cases, this will be the ABFE. In addition, Flood Hazard Area Act rules, in effect since 2007, require the lowest floor of each building in flood hazard areas to be constructed at least one foot above this elevation.

What are ABFEs?

FEMA had been remapping the floodplain along New Jersey's coastline for two years when Sandy hit. FEMA's previous maps were outdated and did not always accurately show the potential for flooding. In order to support and guide New Jersey's recovery efforts, FEMA released its new mapping in December on an advisory basis. The ABFEs use the most accurate modeling, topographic maps and scientific data available. To learn more about ABFEs and to view the maps for New Jersey, visit: http://www.region2coastal.com/sandy/abfe

Will the ABFEs change?

FEMA anticipates some changes to these maps for both elevations and zones. The ABFEs currently reflect the most accurate modeling, topographic maps and scientific data available. FEMA plans to release updated flood maps over the next six to seven months, which will further fine-tune coastal flood elevations. The regulatory process to finalize the maps could take up to two years. DEP will continue to work with FEMA to provide input on these maps.

If the ABFEs are only advisory, why is the state incorporating the use of these maps now as the basis for elevation standards?

In many cases, existing FEMA flood maps were significantly outdated. Many were more than two decades old. The ABFE maps, which are the precursor to final flood maps, will better protect property and lives and provide consistency and predictability during rebuilding. They will make coastal areas stronger and more resilient. Consistency and predictability will allow rebuilding to occur much more quickly so lives affected by Sandy can return to normal. Without this action, residents may have reconstructed with inadequate safety standards, exposing them to substantially higher flood insurance rates when FEMA adopts its final maps.

Do I have to elevate my home and/or build to new construction standards?

You are required to elevate and/or meet new construction standards if your house is located in a flood zone and was declared substantially damaged by your local floodplain administrator or is new construction. You have no legal obligation to elevate if your home was not substantially damaged.

What is the definition of substantial damage?

Substantial damage means damage of any origin sustained by a structure in which the cost of restoration of the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred.

If I have to elevate my house, will the state or federal governments help finance the work?

Yes. FEMA can provide up to $30,000 to cover the Increased Cost of Compliance (ICC) with federal, state and local regulations if you have federal flood insurance. In addition, the Christie Administration intends to provide grants to homeowners with substantially damaged homes to help them offset some of the costs of elevation, mitigation and renovation, and intends to announce in the spring the mechanism for such grants. In order to access any additional funding, FEMA requires property owners reconstruct using the best available data.

Will the emergency regulation affect my flood insurance rates?

The ABFEs do not affect insurance rates. Your rates could increase when FEMA adopts its final flood maps. If you do not meet its elevation standards, which are likely to be close to the ABFES, your rates could increase even more significantly.

Are there benefits to elevating?

Yes. You will better protect your house and its contents and you will likely pay lower flood insurance rates in the future than if you do not elevate. Some people may find that the long-term insurance savings alone can offset the cost of raising a house.

If my home is determined to be substantially damaged, can I still live in it until I elevate?

FEMA allows homeowners to live in structures that are deemed substantially damaged for up to four years if they take temporary measures to make homes habitable pending elevation. The determination of habitability must be made by the local construction official.

Do I have to elevate my house and/or build to new construction standards if my municipality does not pass an ordinance adopting the ABFEs?

Yes, if your municipality declares your house substantially damaged and it is located in a flood hazard area, you are required to elevate and/or build to new construction standards. The DEP is encouraging municipalities to pass an ordinance adopting the ABFEs because this will make your town eligible for Increased Cost of Compliance assistance and other federal mitigation aid. The DEP will be providing municipal officials with a model ordinance so they can adopt the ABFEs as the new elevation standard.

If I have to rebuild, how do I get started?

You should talk to your municipal floodplain administrator to see if your house is substantially damaged. You should also contact your municipality to see what kind of local approval you may need and what construction standards you have to build to. In addition to the DEP's elevation standards, buildings in flood zones must meet Uniform Construction Code standards that are regulated by the New Jersey Department of Community Affairs (DCA) and implemented at the local level.

Will I need a state permit to reconstruct or elevate my building?

The DEP regulates building elevations through its Flood Hazard Area Control Act rules. Under the emergency Flood Hazard Area Control Act rule just adopted, you are eligible for what is known as a permit by rule (effectively an automatic permit) as long as the lowest floor is elevated to at least one foot above the state's design flood elevation and provided the building stays within its original footprint. Slight variations in size and location can sometimes be allowed. You will still need to secure local construction permits. A state Coastal Area Facility Review Act (CAFRA) permit is not needed if you reconstruct in place.

What should I know before rebuilding?

It is very important that you carefully document any repair or reconstruction project to ensure you have a record of all activities from inception to completion. Photographs and other forms of documentation should be kept before, during, and after construction. Retain all receipts, bills, surveys and construction plans. These items will help document the history of your project should you need to do so for FEMA assistance or insurance reimbursement.

What's the difference between FEMA's Zone A and Zone V? Can I appeal a V-Zone designation?

Both zones lie within FEMA's 100-year floodplain. Zone V applies only in tidal floodplains and denotes hazards associated with storm-induced waves of at least three feet in height. Construction standards in the V-zone are more stringent in order to account for the increased risk of damage from storm surges. While there is no appeal process for the ABFEs, you may appeal to FEMA after the agency formally proposes flood maps later this year.