



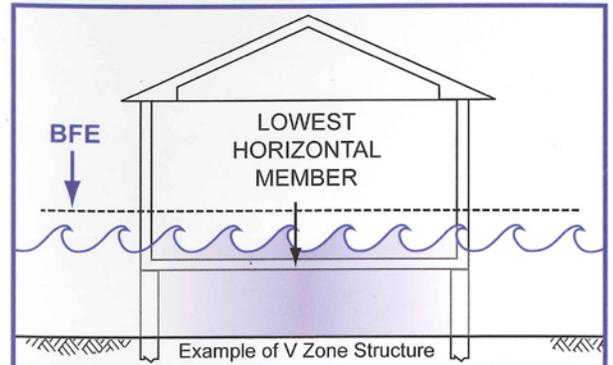
# Town of Fort Myers Beach

## Frequently Asked Questions

### Substantial Improvement “FEMA 50% Rule”

1. What is the 50% Rule?

The 50% Rule is a regulation of the National Flood Insurance Program (NFIP) that states structures that have a lowest living floor, which does not meet or exceed the Base Flood Elevation (BFE) as identified on the current Flood Insurance Rate Map, **may not** be Substantially Improved. BFE within the Town ranges from 10 to 17 feet depending on the property’s location.



2. What is a Substantial Improvement?

Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term “substantial improvement” includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. If a project meets the definition of Substantial Improvement or Substantial Damage it is considered new construction and the entire building must be elevated to or above the BFE.

3. Why is it important to know if an improvement is “Substantial?”

Substantial Improvements require the entire structure to be brought into compliance with NFIP regulations, Florida Building Code, and Town of Fort Myers Beach Land Development Code, not just the proposed improvement. This includes elevating the structure (or floodproofing if it is non-residential) to or above the BFE.

4. What types of structures do the substantial improvement requirements apply to?

The requirements apply to two types of structures:

1. All existing structures: Those that were present at the time the floodplain management and Flood Insurance Rate Maps were adopted.
2. New construction: Substantially improved structures must meet the floodplain management regulations and BFE effective at the time the permit is approved.

5. Will permits be issued for a “Substantial Improvement?”

Yes, provided the plans demonstrate the entire structure is being brought into compliance. A Substantial Improvement Application must be submitted, reviewed and approved by the Town prior to the building permit being approved.

6. What is Market Value?

The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. The Town of Fort Myers Beach determines market value in the following ways:

- a. Utilize the Lee County Property Appraisers assessment for ad valorem taxation for the structure only.
- b. An independent appraisal prepared and certified by a Florida Licensed Appraiser, for the structure only.

7. Where can I find the value of the structure on the Lee County Property Appraiser's Website?

To look up the building value of a property, highlight the "Database Search" on the left side of the screen and click "Property Data Search." After the page loads, click "Real Property Search and Browse," Enter the property information available and click "Search" at the bottom of the page. After the page loads, click "Parcel Details." When the page loads, navigate to the "Property Values" Title and click the **chart graphic** next to the title. This will open the "Property Value History." The "Building" Column provides the value needed. In the example below, the value would be \$559,405.

Property Values (2012 TRIM)		Exemptions		Attributes	
Just	3,013,311	Homestead / Additional	0 / 0	Land Units Of Measure	SF
Assessed	3,013,311	Widow / Widower	0 / 0	Units	280206.00
Portability Applied	0	Disability	0	Frontage	0
Cap Assessed	3,013,311	Wholly	3,013,311	Depth	0
Taxable	0	Senior	0	Total Number of Buildings	1
Cap Difference	0	Agriculture	0	Total Bedrooms / Bathrooms	0 / 42.0
				Total Living Area	17,636
				1st Year Building on Tax Roll	1985
				Historic District	No

Property Value History					
Tax Year	Just	Market Assessed	SOH Assessed	Taxable	Source
1992	847,370	847,370	847,370	0	ROLL
1993	834,500	834,500	834,500	0	ROLL
1994	821,630	821,630	821,630	0	ROLL
1995	808,930	808,930	808,930	0	ROLL
1996	796,390	796,390	796,390	0	ROLL
1997	1,363,480	1,363,480	1,363,480	0	ROLL
1998	1,362,500	1,362,500	1,362,500	0	ROLL
1999	1,353,650	1,353,650	1,353,650	0	ROLL
2000	1,344,790	1,344,790	1,344,790	0	ROLL
2001	2,266,870	2,266,870	2,266,870	0	ROLL
2002	2,256,310	2,256,310	2,256,310	0	ROLL
2003	3,657,920	3,657,920	3,657,920	0	ROLL
2004	3,547,790	3,547,790	3,547,790	0	ROLL
2005	7,816,020	7,816,020	7,816,020	0	ROLL
2006	9,247,230	9,247,230	9,247,230	0	ROLL
2007	9,234,730	9,234,730	9,234,730	0	ROLL
2008	9,222,220	9,222,220	9,222,220	0	ROLL
2009	6,407,660	6,407,660	6,407,660	0	SOH
2010	5,009,881	5,009,881	5,009,881	0	SOH
2011	3,025,681	3,025,681	3,025,681	0	SOH
2012	3,013,311	3,013,311	3,013,311	0	SOH

8. Can replacement cost be substituted for market value to determine substantial improvement or damage?

No, replacement cost is the cost of replacing the structure with a structure of like kind, using present day costs for labor and materials. Replacement cost is often much greater than market value.

9. Are there any projects that do not count towards the 50% Rule?

Yes, in the following examples the cost of improvements do not apply to the 50% Rule:

- a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions. This does not apply to structures that are considered "Substantially Damaged."

- b. Any repair, rehabilitation or addition constituting substantial improvement to a designated historic structure may be exempt, but the owner must receive in writing approval from the Florida Division of Historic Resources office that the structure will maintain its historical integrity and historical classification.
- c. Costs of alterations or improvements whose express purpose is the mitigation of future storm damage, provided the costs of such measures, plus the costs of any other improvements, do not exceed 50 percent of the market value of the structure over any one-year period; examples of such mitigation include the installation of storm shutters or impact resistant glass, strengthening of roof attachments, floors, or walls, and minor measures to reduce flood damage. Mitigation improvements may be made in the same year as other improvements, but the total cost of both types of improvements may not exceed 50% of the market value of the structure.
- d. Costs related to the development of plans and specifications, surveys, and permits.

10. Do maintenance projects count toward the 50% calculation?

Yes, maintenance projects of any type are logged toward the 50% rule.

If the maintenance requires a permit from the Town of Fort Myers Beach, the Substantial Improvement Application must be provided with the permit application.

If a permit is not required, the Residential Improvement Cost form is to be submitted to the Town to track the cumulative improvement.

11. Can I enclose the area underneath my home and make it into habitable space?

No, if the area is located below the base flood elevation, this area can only be used for storage, parking, and building access. It should be noted that areas enclosed that are larger than 299 square feet shall be considered the first habitable floor by FEMA and the NFIP program.

12. Is Substantial Improvement cumulative?

Yes, structures can be improved up to 50% every 5 years. The 50% is calculated from estimates and contracts prior to the commencement of work and with consideration of any other permitted work that has been completed in the past 5 years.

Improvements that assist toward mitigation of future storm damage such as storm shutters, impact resistant windows, strengthening of roof attachments, and minor floodproofing can be made provided they do not exceed 50% of the value of the building in a one year period. Mitigation improvements may be made during the same year as other improvements. However the total cost of both types of improvements may not exceed 50% of the building value.

13. How is the value of an improvement determined?

The Town uses a Substantial Improvement Application, which must be completed, signed by the contractor or the owner-builder, and submitted with the permit application to determine if a project can be completed under the 50% threshold. This form must also include copies of the construction contract and any subcontractor bids. The Town will evaluate the cost of improvements and determine if they are fair and reasonable. The cost of improvement includes the total costs for repair, reconstruction, rehabilitation, additions, or other improvements to the structure. These costs include all materials, labor, built-in appliances, overhead, profit, demolition, and repairs made to the structure. The application must be reviewed and approved prior to building permit approval and commencement of work.

The Town also uses an Improvement Cost Submittal Form for projects that do not require building permits. The purpose of this form is to track the costs of improvements to ensure the 50% threshold is maintained. These costs are also considered cumulative and will count against the building value for 5

years. Examples of improvements that do not require a permit include: painting, stand-alone appliances, floor coverings, exterior finishes, interior doors, and hardware.

14. Is the cost of an improvement discounted if the owner does the work or the materials are donated?  
No, the value placed on materials must equal the actual or estimated cost. The value placed on labor must be estimated based on applicable hourly wage scales for the type of construction work. Improvement costs cannot be discounted to keep the cost estimate below 50%.

15. Are there any items that can be excluded from the cost of improvement?  
Items that should not be counted toward the cost of repair include plans, specifications, surveys, building permits, and other items separate from or incidental to the repair or improvement of the structure such as outdoor landscaping. Improvements to the land, such as driveways, pools, seawalls, etc. are not included in the 50% Rule value.

16. How do I find out the required BFE of my property and what does it mean?  
You can call the Town of Fort Myers Beach Planning Coordinator at 239-765-0202 X115 or you can look on the Flood Insurance Rate Map (FIRM) that are listed on the Town's website at: [www.fortmyersbeachfl.gov/index.asp?nid=168](http://www.fortmyersbeachfl.gov/index.asp?nid=168)  
Base Flood Elevation (BFE), is the 1% annual chance of flooding. The 1% annual chance of flood is one that has a 1% (1 out of 100) chance of occurring in any given year. The base flood is also informally referred to as the 100-year flood and is the national standard used by the NFIP and all Federal agencies for the purposes of requiring the purchase of flood insurance.

17. What are the flood zones within the Town?



**AE Zone** – the AE Zones have a BFE established on the FIRM and are areas that are susceptible to slow rising waters.

**VE Zone** – The VE zones, also known as Velocity zones, are in the coastal area along the Gulf of Mexico. These areas have a BFE established on the FIRM and are areas that are susceptible to wave action and rising floodwaters during a storm.

18. How do I find out the elevation of the lowest floor of my house?  
An Elevation Certificate is needed to determine the elevation the structure was built at. Some homes within the Town have had elevation certificates completed and are on file at Town Hall. You can call the Town's Building Services Coordinator at 239-765-0202 to determine if a copy is on file. If not, an Elevation Certificate will need to be completed by a Florida Licensed Surveyor.

19. Is flood insurance required?  
Yes, the purchase of flood insurance is mandatory for all federal or federally related financial assistance for the acquisition and/or construction of buildings in a Special Flood Hazard Area (SFHA). The entire Town of Fort Myers Beach is within an SFHA. There is a 30 day waiting period for a new flood insurance policy to take effect, so don't wait until a storm threatens to contact an insurance agent!

20. Why should an owner suffer what seems to be a penalty for upgrading and/or improving a structure?

The underlying principal for counting extra costs associated with the more expensive materials, labor or design is the added real property that would be at risk to flood damage. It should be noted that in some form, the Federal Government (NFIP, FEMA, or various disaster assistance programs) would likely be obligated to pay a portion of or all future damage to these more expensive improvements. In addition, structures located in a SFHA that are not elevated to or above the BFE pose threats to the health and safety of the occupants of these structures. Over time it is not only important to protect the property of the existing structures through substantial improvement, but also protect the health and lives of the public citizens that occupy them.

21. What if the Town of Fort Myers Beach did not participate in the NFIP?

There are several consequences if the Town did not participate. The largest is the unavailability of affordable flood insurance for residential or commercial buildings within the Town. In addition, there would be no Federal grants, loans, mortgage insurance, or federal disaster assistance for structures in the SFHA. Owners of buildings with conventional loans would also be required to notify buyers or lessees that the property is in a SFHA and Federal disaster relief is not available to them in the event of a declared disaster.

### **SUBSTANTIAL DAMAGE**

22. What is Substantial Damage?

Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

23. If a structure is substantially damaged and is not brought into compliance with community floodplain management regulations, how will that impact on flood insurance rates and premiums?

If the structure is identified as Substantially Damaged and is not elevated but is rebuilt (a violation of the Town's floodplain management regulations) the insurance rates and premiums will be significantly higher – as much as \$25 for every \$100 in flood insurance coverage.

24. What happens when a structure is damaged, but not substantially, and during the repair the owner also makes an addition, rehabilitation, or other improvements to the structure?

If the owner of a building, which was 30% damaged by flood, decides to add a room during the repair process for the flood damage, the combined total of these improvement must be equal to or less than 50% of the structures pre-damaged market value to **not** be considered a substantial improvement.

### **DEFINITIONS**

Rehabilitation – Any work undertaken in an existing building.

Repair - The patching, restoration and/or minor replacement of materials, elements, components, equipment and/or fixtures for the purposes of maintaining such materials, elements, components, equipment and/or fixtures in good or sound condition.

Repetitive Loss Structure – Buildings and structures that have sustained flood-related damage on two or more separate occasions during any five-year period, for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.