



1. What is the 50% rule?

The 50% Rule is a regulation of the National Flood Insurance Program (NFIP) that prohibits improvements to a structure exceeding 50% of its market value unless the entire structure is brought into full compliance with current flood regulations. This may include elevating the structure, using flood-resistant materials, and proper flood venting among others.

Frequently Asked Questions about FEMA’s “50% Rule” Regarding Substantial Improvement

What is Substantial Improvement and Substantial Damage?

Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building, the cumulative cost of which equals or exceeds 50% of the pre-damaged market value of the building or structure before the improvement or repair is started. 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 Base Flood elevation (BFE) and otherwise made fully flood compliant.

2. Why is it important to know if an improvement is “substantial?”

Exceeding the Substantial Improvement threshold requires the entire structure to be brought into compliance with current NFIP regulations, the Florida Building Code, and the Town of Fort Myers Beach Land Development Code. This may include elevating the structure at or above BFE, flood proofing it, installing proper flood venting, and using flood-resistant construction materials.

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

Yes, provided the plans demonstrate the entire structure is being brought into compliance. A Repair Improvement Cost Form must be submitted, reviewed, and approved prior to the building permit being approved. <http://www.fortmyersbeachfl.gov/DocumentCenter/View/15113/Repair-Improvement-Cost-Form>

4. 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. As guided by FEMA, the Town of Fort Myers Beach determines market value in the following two ways:

- a. Utilize the Lee County Property Appraiser’s (L E E P A) assessment for ad valorem taxation for the market value for the structure only.
- b. An independent appraisal for the structure is only prepared and certified by a Florida-licensed property appraiser.

5. *Where can I find the pre-damaged market value of the structure?*

Option 1:

- a. Go to: <https://www.leepa.org/>
- b. In the Quick Property Search area, enter the address into “Site Address” and click the Search button.
- c. After the page loads, click the blue “Parcel Details” link on the right side of the screen (shown highlighted below).

Search by <u>Address</u> for '2525 estero' found 1 match			
STRAP / Folio ID	Owner	Site Address / Property Description	Links
19-46-24-W3-00450.A000 10227570	TOWN OF FORT MYERS BEACH 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	2523/2525 ESTERO BLVD FORT MYERS BEACH FL 33931 HILLS T.P.SUBD. PB 3 PG 84 BEG AT SW COR LOT 31 TH N	Parcel Details Tax Estimator View Comps 2022 TRIM Aerial Viewer Variance Report Change Address

- d. Click continue in the pop-up box that appears.
- e. When the page loads, navigate to the “Values” Tab and click the yellow link in the middle of the screen labeled “Tax Roll Value Letter.”

+
Owner Of Record - Sole Owner
[Change Address]
?

TOWN OF FORT MYERS BEACH
c/o FINANCE DEPT
2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

Site Address
 Site Address maintained by [E911 Program Addressing](#)

2523/2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

ALTERNATE ADDRESS INFORMATION:
2525 ESTERO BLVD

Property Description
?

Do not use for legal documents!

HILLS T.P.SUBD. PB 3 PG 84 BEG AT SW COR LOT 31 TH N

Current Working Values

Tax Roll Value Letter

?

- f. You may enter your email address into the pop-up box that appears, but it is not required. Click continue in the pop-up box.
- g. The pre-damaged market value of the building is shown in the lower half of the table located in the middle of the letter (highlighted below). Please remember that pursuant to the FEMA administered National Flood Insurance Program the calculation of substantial improvement or substantial damage is based only of the market value of the structure and does not include landvalues.

Dear Taxpayer,

In the chart below you will find the most recent values from the 2022 ad valorem tax roll. The values represent the Lee County Property Appraiser's determination of market value for ad valorem tax purposes as of January 1, 2022.

Total Just Value	\$4,049,118
Land Value	\$2,775,640
Land Extra Features Value	\$64,460
Building Value	\$1,190,711
Building Extra Features Value	\$18,307

- h. Divide the building value in half to reach the 50% substantial improvement/substantial damage threshold.

Option 2:

You may use a proposed value submitted by a Florida-licensed property appraiser instead of the Lee County Property Appraiser valuation. which exceed the property tax appraiser's valuation by more than 35 percent may be subject to peer review by a qualified local appraiser or submittal of a second independent appraisal, with the full cost of the review or new appraisal paid for by the applicant.

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

No, pursuant to FEMA regulations, 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.

- A Repair Improvement Cost Form is required to be submitted with all permit applications so that a substantial Improvement determination can be made.

<http://www.fortmyersbeachfl.gov/DocumentCenter/View/15113/Repair-Improvement-Cost-Form>

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

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

- Any project for improvement which a building requires 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."
- 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.
- 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% 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.

- Costs related to the development of plans and specifications, surveys, and permits.

8. 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 Repair Improvement Cost Form must be provided with the permit application.
- Even if a permit is not required by the Florida Building Code (e.g., renovation of cabinets, countertops, painting, etc.), a Repair Improvement Cost Form is still required to be submitted to the town to track the cumulative improvement to the structure as it relates to the 50% rule.

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

No, if the enclosed area is located below the base flood elevation, this area can only be used strictly for storage, parking, and building access. Utilities are prohibited in these spaces, and they cannot be air conditioned.

10. Is Substantial Improvement cumulative?

According to current Town of Fort Myers Beach Ordinance 17-09, the definition of “substantial improvement” involves: *“Any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair, is started.”*

<http://www.fortmyersbeachfl.gov/DocumentCenter/View/12614/17-09-Technical-Amendments-to-FL-Building-Code>

11. How is the value of an improvement determined?

The Town uses a Repair Improvement Cost Form 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 the Repair Improvement Cost 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 in cases where proposed projects do not require a building permit under the Florida Building Code.

12. 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%.

13. 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,

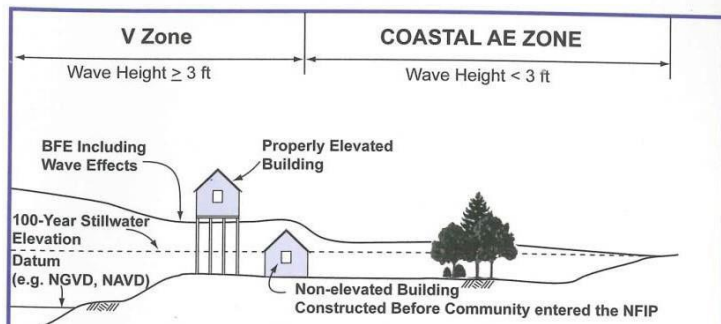
building permits, and other items separate from or incidental to the repair or improvement of the structure such as outdoor landscaping. Improvements to the land, such as driveways, pools, seawalls, etc. are not included in the 50% Rule value.

14. 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

Base Flood Elevation (BFE), is the 1% annual chance of flooding. The 1% annual chance of flooding 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.

15. 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 lower wave heights.

VE Zone – The VE zones, also known as Velocity zones or Coastal High Hazard Areas, 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 quickly rising floodwaters during a storm.

16. How do I find out the elevation of the lowest finished floor of my house?

An Elevation Certificate is needed to determine the elevation at which a structure is built. 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.

17. 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! If you've paid off your mortgage, you might be tempted to cut corners and eliminate your flood insurance and rely, instead, on federal disaster relief should your home be damaged in a flood. While you're banking on suffering flood damage only in a declared disaster -- a choice that can backfire on you -- you also won't be off the hook financially if you receive disaster assistance. Assistance isn't a grant, but a loan that you pay

back with interest.

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

The underlying principle 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 people that occupy them.

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

There are several consequences if the Town does 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.

20. 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 pre-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. The flood regulations for the renovation of a substantially damaged structure are the same as those for one that is substantially improved.

21. 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.

22. I've purchased a damaged home since the storm. Do I need to include the previous owners labor and materials in the repair/improvement cost form?

Yes, you must include all labor and material costs that the building has required, or will require, to be repaired to its pre-damaged condition.

23. How is the 50% rule calculated?

If the total cost (labor and materials) to restore the building to its pre-damaged condition is less than 50% of the market value of the pre-damaged structure (the entire building), the existing structure can be repaired as is, provided all construction was permitted and code-compliant in your flood zone originally, without elevating the structure. If the total cost (labor and materials) to restore the building to its pre-damaged condition is greater than 50% you can still repair the damage but the structure must

be up to current building code and floodplain management regulations. One of the more notable requirements is the requirement to raise the lowest floor of the structure to the required design flood elevation. The “lowest floor” means the lowest floor of the lowest enclosed area, including basements but excluding unfinished or flood damage-resistant enclosures usable solely for parking of vehicles, building access, or storage

24. Who is responsible for making the 50% calculation?

For NFIP compliance measures, the Town requires a completed repair/improvement cost form (with the total cost, labor, and materials, itemized for all repairs needed to bring the building back to its pre-damaged condition). Please email the completed form along with your building permit application to buildingpermits@fmbgov.com.

The repair/improvement cost form is found at the Town website page below:

REPAIR/ IMPROVEMENT COST FORM - *for the purposes of making a substantial improvement determination (FEMA 50% rule), a Repair/Improvement cost form is required if the job value is \$2500 or more and may be required for any projects at the discretion of the director.*

25. On the repair/improvement cost form, if I am utilizing some “owner and volunteer labor,” how should I value this work?

A reasonable “market value” for labor must be included on the repair/improvement cost form. For owner and volunteer labor, the Town will accept the 2021 Florida mean wage for physical labor at construction sites of \$17.25 hour, according to the 2021 survey conducted by the U.S. Bureau of Labor Statistics.

The value placed on labor should be estimated based on applicable minimum-hour wage scales for the skill and type of construction work that is done. Cost estimates will be verified by local officials based on professional judgment and knowledge of the local or regional construction industry wage scales.

26. Our home is at an elevation of 6 feet. Provided we can bring structure back to its original condition for less than the 50% threshold, will we be permitted to do so WITHOUT raising the base elevation of the structure?

A 50% substantial damage determination is made for each building. The cost to repair all units and common areas of each building (the entire building) to its pre-damaged condition is compared to 50% of the calculated market value of the structure prior to sustaining damage. If the total cost (labor and materials) to restore the building to its pre-damaged condition is less than 50% of the market value of the pre-damaged structure (the entire building), the existing structure can be repaired as is, provided all construction was permitted and code-compliant in your flood zone originally, without elevating the structure. If the total cost (labor and materials) to restore the building to its pre-damaged condition is greater than 50% you can still repair the damage but the structure must be compliant with current building code and floodplain management regulations.

27. Should we get this far, what is the anticipated time frame for obtaining a building permit?

We are accepting all building permit applications.

28. Are you currently issuing permits for repair of hurricane damaged homes, or will there be a delay before you begin to issue permits?

We are experiencing very high permitting volume after Hurricane Ian and we are processing as quickly as possible. It will likely be reviewed and processed within 15 business days.

29. Glass windows and doors--what is the requirement for replacement of windows and doors? Is there a requirement for a certain level of "hurricane" glass

Any total replacement of exterior window or door units requires a building permit. All structures in wind-borne debris regions (all of the Town of Fort Myers Beach) are required by Florida Building Code to have some means of opening protection for the exterior glazed fenestrations (glass). This can be in the form of impact-resistant windows, doors, or shutters that are impact rated and have a current Florida Product Approval number or Miami-Dade Notice of Acceptance (NOA). Replacement of windows or doors in Fort Myers Beach requires a window/door/shutter permit, obtained through the IWorQ online permitting system at <http://www.fmbgov.com/building>

30. Are improvements or repairs that "harden" or improve the buildings resistance against future wind damages, such as impact windows/doors/shutters, excluded from the 50% rule calculation?

All improvements or repairs completed, including new impact windows, doors, and shutters, are included in a substantial improvement or substantial damage determination. However, note that only the main structure is included in making a 50% substantial damage determination. Accessory structures (fences, driveways, garages, etc) are excluded.

31. We have obtained an AVM appraisal--Automated Value Model. Our mortgage banker indicated this was a very common method used to appraise property for their lending purposes. Will an AVM "appraisal" be an accepted alternative appraisal method?

The reproduction cost method cannot be used, however you can use an independent appraisal of the building's market value prepared and certified by a Florida-licensed property appraiser if you so choose, instead of the Lee County Property Appraiser valuation. You would include the appraisal as an additional attachment along with your building permit application. The floodplain coordinator will review the appraisal for the 50% substantial damage determination, and it will not add to processing time.

The Town of Fort Myers Beach floodplain ordinance allows for a determination of building market value using either of the following two methods:

- a. Utilize the Lee County Property Appraiser's (LEEPA) assessment for ad valorem taxation for the market value for the structure only.
- b. An independent appraisal for the structure only prepared and certified by a Florida-licensed property appraiser

The bottom level of our mid-rise condominium building was severely damaged by the hurricane. Can ground level common areas (offices and community rooms) be rebuilt on the ground level?

The 50% rule applies to any improved or damaged primary building, regardless of the use or occupancy. The cost to repair the entire building to its pre-damaged condition is compared to 50% of the calculated market value of the entire structure prior to sustaining damage. Provided that the repair cost is less than the 50% damage threshold, and the construction on the ground level is code-compliant, the existing construction can be repaired.

As a homeowner can I replace drywall, electrical receptacles, and reinstall salvaged countertops sinks and faucets in my own home? Is my labor factored into the 50% rule somehow?

Yes, you can pull an interior remodel permit and you also have the option to act as your own general contractor for your own home by completing the work yourself as an “owner-builder.” If a property owner is acting as the general contractor (owner-builder), they must sign the “Owner Builder Disclosure Affidavit” and must be able to complete all the work themselves, or hire licensed contractors i.e. (electrical, plumbing, HVAC, roof). This completed form must be included with any permit application for which the owner wishes to be an owner-builder.

Be sure to read the disclosure statement carefully before considering being an owner-builder. If you have a contractor help you, they must be a Florida-licensed contractor and must be added to the permit as a subcontractor. Any person working on the building who is not licensed must work under your direct supervision and must be employed by you, meaning that you must comply with laws requiring the withholding of federal income tax and social security contributions under the Federal Insurance Contributions Act (FICA) and must provide workers’ compensation for the employee(s).

Additionally, a completed repair/improvement cost form must be included with the application. Note that an estimate of donated or discounted materials and owner/volunteered labor must be included on the cost form: <https://www.fortmyersbeachfl.gov/DocumentCenter/View/16198/Form--Repair-Cost-form-2020>

decided to demolish my building as it was substantially damaged. Will the city be removing my home?

While the Town of Fort Myers Beach does not demolish homes, you may first wish to apply for federal assistance through <http://www.lanDebrisCleanup.com>

Decided to demolish my home. What is my next step?

If your intent is to demolish your building, first contact your insurance adjuster as some costs may be covered. You may also qualify for Increased Cost of Compliance coverage through your flood insurance. If you have a substantial damage determination letter issued to you for your building, you should forward this letter to your insurance adjuster. If you had flood insurance, they will be able to provide you with more detailed information regarding your current insurance coverage and potential elevation of your structure (lower insurance premiums at a higher elevation, increased cost of compliance coverage, etc). You will then be able to make an informed decision regarding elevating your existing structure or demolishing the structure and building a new structure with a higher first floor elevation. A demolition permit (demo permit) is secured through the Town by your contractor, should you decide to go the demo and rebuild route. When you are ready to demolish a one-family or two-family home, you may have a Florida general, building, residential, or demolition specialty contractor of your choice apply for a demolition permit through the IWorkQ online permitting system at <http://www.fmbgov.com/building>. The contractor will remove the home.

40. *Our home has been completely destroyed. My insurance provider says I need a substantial damage determination letter from the Town to qualify for Increased Cost of Compliance coverage. How do I obtain this?*

If you had federal flood insurance, you'll want to look into applying for "Increased Cost of Compliance" coverage with your insurance adjuster prior to demolition. If you're pursuing this, you'll need to provide the insurance adjuster with a substantial damage determination letter.

For structures that are completely destroyed or near completely destroyed by flood damage:

Please send an email our Floodplain Coordinator at buildingpermits@fmbgov.com with a description of the scenario and request a substantial damage determination letter. The Town of FortMyers Beach Floodplain Coordinator will review the supplied cost estimate for a possible 50% substantial improvement or substantial damage (SI/SD) determination. If it is determined that the total cost of repair (labor and materials) will exceed 50% of the pre-damaged market value of the structure, a substantial damage determination letter will be issued and you can forward this substantial damage determination letter to your insurance company for Increased Cost of Compliance (ICC) purposes.

For structures that have sustained flood damage but are not destroyed or nearly destroyed (and will be renovated instead of demolished):

To request a substantial damage determination letter, please work with your licensed contractor to complete a repair/improvement cost form at the link below which itemizes your repair costs:

<https://www.fortmyersbeachfl.gov/DocumentCenter/View/16198/Form--Repair-Cost-form-2020>

Email the repair/improvement cost form to our Floodplain Coordinator at buildingpermits@fmbgov.com. The supplied cost estimate will be reviewed for a possible 50% substantial improvement or substantial damage (SI/SD) determination. If it is determined that the total cost of repair (labor and materials) will exceed 50% of the pre-damaged market value of the structure, a substantial damage determination letter will be issued. You can forward this substantial damage determination letter to your insurance company for Increased Cost of Compliance (ICC) purposes.