

How is the Substantial Damage Rule (50% rule) different for multi-family structures (condos, townhomes, etc)?

If the property is in a [special flood hazard area](#) (aka flood zone) and was damaged during a hurricane or other flooding events, the property will be evaluated for Substantial Damage, as with any property in the special flood hazard area. However, for condominiums and townhomes that are part of a homeowners' association with shared property, **a substantial damage determination is made for each building rather than the individual units.**

If the cost to repair the **entire building** is 50% or more of its value, without the land, the building is considered Substantially Damaged and cannot be repaired without bringing it into compliance with the current floodplain codes.

The County will make substantial damage determinations based on the application and supporting documentation submitted.

Responsibilities of the condo or homeowners' association

1. **Determine the value of each building** based on either data from the [Lee County Property Appraiser](#) or private appraisals. 50% of this value is what may be spent on repairs *to the entire building (all units repair values combined)*.
2. **Things to consider:**
 - What is the value of the building? Do you agree with the property appraiser's value, or do you want to pay for a private appraisal?
 - Is there a common area (such as exterior siding, soffit, windows, roof, lobby, etc.)? What will it cost to repair common areas? This amount must be part of the total estimated cost to repair the structure.
3. **Select one general contractor for repairs to common building elements**, One permit will be processed for all of the common elements for the entire building. Each unit owner will have their own individual permit (keeping in mind the 50% value to work with is the overall Building value, not the individual unit value).

An example condo storm repair scenario (Units 1-6 are all on the ground floor).

- A condo building was flooded on the first floor. Units 1 and 2 sustained some damage, units 3 and 4 sustained significantly more damage, and units 5 and 6 sustained no damage. The depreciated actual cash value of the condo **building** before the storm was \$800,000
- 50%, or \$400,000, can be spent on repairs or improvements for the entire building (NOT for each unit).

- The Association gets bids from contractors and determines that common elements can be repaired for \$20,000. That means there is a \$380,000 limit for repairing all of the other individual units.
- The Association works with individual owners to review estimates to repair their units. The Association determines that units 1 and 2 will require \$40,000 each to repair to their pre-storm condition, and units 3 and 4 will require \$60,000 each to repair to their pre-storm condition. The association allocates its 50% as follows (values include labor and materials):

\$20,000 for common areas

\$40,000 for unit 1

\$40,000 for unit 2

\$60,000 for unit 3

\$60,000 for unit 4

Units 5 and 6 are not authorized to make repairs or renovations because they did not sustain damage.

Total allocated: \$220,000. This is below the 50% threshold of \$400,000.

- The Association selects a licensed contractor to make all common area repairs.
- The contractor completes the Licensed Contractor Affidavit document, repair permit application and the Contractor portion of the Detailed Cost Breakdown Package for the common area repairs.

Each unit owner will be required to submit their own repair permit application. The collective costs will be evaluated by staff to see if the 50% threshold is breached. County staff will evaluate the costs to repair against all other repair costs associated with other units and common areas.

Clubhouses and other freestanding buildings will be evaluated individually.

For additional information or questions, please contact FIRMinfo@leegov.com or call 239-533-8948.