



Interpretation

Building Department

Floodplain Management

CODE SECTION: Section 16-144

VIA: Paul Bollenback, Building Official

FROM: Christa Carrera, Floodplain Coordinator

DATE: September 4, 2013 – UPDATED

SUBJECT: Exemptions to the 50% Rule
(Substantial Improvement)

Code Provisions: The definition of *Substantial improvement* means any combination of reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The cost of such work is cumulative over a 12 month period, starting on the permit application date. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. This term does not, however, include either:

- (1) Any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions (this excludes Substantial Damage); or
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Explanation for Correcting Existing Violations 1:

This language is included to avoid penalizing property owners *who have no choice but to make improvements to their buildings or face condemnation or revocation of a business license*. It is intended for involuntary improvements or violations that existed before a permit was applied for or before the damage occurred. Violations of health, safety, and sanitary are considered violations only if they have been identified as violations – the mere presence of a condition that does not conform to current codes does not qualify as a violation.

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Interpretation for Correcting Existing Violations 1:

The City of Naples will allow the replacement of windows, doors and roofing to be exempt, from the 50% limitation, if they do not meet the current Florida Building Code, provided the following provisions are met:

- (1) The windows and doors must be size for size and must be for the purpose of hardening the structure.
- (2) The roof must be materials only (no truss work) and must be for the purpose of hardening the structure.

A signed & sealed original letter on letterhead from a Florida licensed architect or engineer stating that an on-site inspection has been completed and the associated items do not meet the current code, must be sent to the Floodplain Coordinator **prior to the first submittal of a permit application for the any work.** (If a permit has been issued within the last 12 months, a letter cannot be submitted for an exemption.) This letter must be reviewed and approved by the Floodplain Coordinator and/or the Building Official prior to submitting for a permit.

Required language for the letter is below:

We have conducted a field inspection of the structure located at _____ on {DATE}. This structure was built in {YEAR OF CONSTRUCTION} and is not in compliance with current standards.

The existing windows and doors for the above referenced structure are not impact resistant and do not have specific product approval to preserve the enclosed building envelope against impact loads as required in the 2010 Florida Building Code. We are providing new impact rated doors and windows on all openings that meet the 2010 Florida Building Code requirements. The existing windows and doors are unsafe and are being replaced for the purpose of life safety and for hardening the structure.

In addition, the existing roof covering material attachment method does not meet the requirements of the 2010 Florida Building Code. We are providing new _____ roof material that meets the specifications and attachment requirements of the 2010 Florida Building Code. We understand this exemption does not pertain to any truss work other than strapping of the existing trusses.

We respectfully request the value of the windows, doors, and roofing to be exempt from the 50% calculations for structures located below base flood elevation. We understand that this exemption only applies to windows and doors, that are size for size and like for like. Any changes, additions or modifications to the size or type of window or door will be included in the 50% calculations. We also understand that this exemption only applies to roofing materials and any changes, additions or modifications to the roofing will be included in the 50% calculations.

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Interpretation for Alterations of a Historic Structure 2:

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- (3) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By the approved Florida program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior.

A historic structure may be exempt from the ~~50%~~ rule and the elevation requirements of substantial improvement provided the following provisions are met:

1. The structure must be defined by one of the above definitions for historic structure.
2. The alteration/addition/remodel must be approved in writing by the State Historic Preservation Office and submitted to the Floodplain Coordinator and/or Building Official prior to submitting the permit application for the actual work.