



Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed!

Here's Something You Might Find Interesting . . .

Let's talk about accessory structures, especially sheds. You know, the ones you buy at Home Depot, Lowe's, and many local hardware stores and garden centers. The ones that Harry Homeowner and his neighbors put way out in the corner of the back yard. The ones that often are placed without regard for zoning setbacks and building codes, much less requirements found in floodplain management ordinances.

First, a little background. The NFIP requires that communities regulate development – and the definition of development is pretty all-inclusive. The NFIP doesn't have exemptions for things that are small (such as small sheds), or things that seem pretty ridiculous to regulate. This brings to mind the opinion of an assistant attorney general in Maryland who, after reading the statute for the state's floodplain regulatory program, said that it could be read that “even a teaspoon of fill” is a regulated activity. Of course, there's lawyer-talk and there's reality. But really, how many communities issue permits for sheds?

We'll get back to the NFIP requirements in a minute. But first, you may have noticed that I regularly refer to building code requirements. The reason is because the *International Building Code* and/or the *International Residential Code* have been adopted by 44 states (and also by many communities in states that don't have a state code). Plus, FEMA has stated that the flood provisions of the 2003 and 2006 editions of the I-Codes are consistent with the provisions in the NFIP regulations (note that some states still use the 2000 editions).

So now let's talk about the building code and accessory structures. The IBC and the IRC both have lists of “work exempt from permit” and those lists include quite a few things. Both codes exempt “one-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet.” [FYI, the size limit is expected to increase to 200 sq ft in the 2009 editions of the codes.] If your state or community uses the I-Codes, you might want to take a closer look at the list; it includes some fences and retaining walls, some water tanks, sidewalks and driveways, swings and playground equipment, and some other minor work.

As always with codes and regulations, one must be thorough. Note that while the IBC and IRC exempt sheds from a permit – both clearly state that exemption “shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances” of the jurisdiction.

What that means is although a property owner doesn't have to pull a permit to put a small shed in the back yard, the codes still apply. Code officials have told me that while they don't go looking for compliance of these exempted activities, they can take enforcement action if necessary.

And that brings us back to which code requirements or provisions of a community's floodplain ordinances apply to accessory structures, and yes, even those small enough to be exempt from a building permit. Of course, such structures can be elevated to be at or above the base flood elevation, but I think we can all agree it's unlikely that sheds will be held to that standard.

The NFIP regulations don't explicitly address accessory structures. Most communities have adopted language for accessory structures that traces back to the rules for enclosures: limited to parking and storage; elevated electrical, flood-damage resistant materials; and flood openings (in all A zones). Keep in mind that if the shed or accessory structure is to be located in a floodway, a floodway encroachment analysis should be required. I'm pondering what requirements would be triggered for accessory structures in V zones – Technical Bulletin 5 has some guidance, but since I'm running short of space, I won't repeat it here.

There is one more very basic NFIP and code requirement that needs to be addressed: all structures (including sheds) must be "adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy." [44 CFR 60.3(a)(3)(i)]. You can appreciate the importance of anchoring if you've ever seen a dislodged shed jammed under a bridge or plugging a culvert and causing an increase in backwater flooding. And remember, an individual can be held liable for damages due to his or her actions – or, in this case, inactions if they neglected to anchor a shed that washed away and is shown to have worsened flooding. [RCQ]

Feedback from Last Issue . . .

In my last column (*Insider* March 2008), I described a situation that must not happen frequently, because I didn't hear from readers. Years ago, while with Maryland's floodplain regulatory program, I reviewed an application in a community in Western Maryland where the waterways are steep and the water surface elevations drop several feet in a short distance, thus a single site may have multiple BFEs. A developer wanted to put a long, narrow building parallel to the stream, and the BFE at the downstream end of the site was 4 or 5 feet lower than the BFE at the upper end. He tried to convince me that the solution was to have a "stepped" building elevated on pilings, with each stepped part above the BFE.

I hope it comes as no surprise to anyone that I was not persuaded. The discussion revolved around whether each stepped part could be considered a separate building that just happens to be very (very!) close to an adjacent building. While in theory that approach could be taken if each building has a separate foundation, I reminded the developer of three things: (1) that floodplain mapping is not so precise as he'd like to think and mountainous streams typically have heavy sediment and debris loads; (2) that his engineer would have to demonstrate that the flood loads exerted on each "building" would not transfer loads to the others; and (3) that under the NFIP's insurance policies, each "separate building" would require a separate flood insurance policy. It still took a bit of convincing, but at the end of the day he gave up on the project altogether and my office had one less permit application to process. [RCQ]

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Washington Legislative Report

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Lots of Build Up; No Major Action Yet

As *Insider* goes to press, the Congress seems on the verge of action on a variety of issues of concern to floodplain managers, but no significant action has been taken or finalized just yet. That includes action on a [Budget Resolution](#) to guide the appropriations process. Because of the fall elections, this will most likely be a short legislative session (unless there is a *Lame Duck Session* in November and December). So, there is a considerable amount of

