

MODEL FLOODPLAIN ORDINANCE #25

AN ORDINANCE WHICH ESTABLISHES AND DELINEATES A FLOOD
PLAIN DISTRICT WITHIN THE TOWN OF MARDELA SPRINGS,
PROVIDES FOR THE ISSUANCE OF PERMITS AND IMPOSES
CERTAIN REGULATIONS ON CONSTRUCTION AND DEVELOPMENT
WITHIN THE DISTRICT.

BE IT HEREBY ORDAINED BY THE TOWN COMMISSIONERS OF MARDELA SPRINGS
OF TOWN OF MARDELA SPRINGS, MARYLAND as follows:

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ARTICLE I - REGULATORY PROVISIONS

Section I: Short Title

This Ordinance shall hereafter be referred to as the "Town of Mardela Springs Floodplain Management Ordinance".

Section II: Findings and Intent

Whereas, certain areas of Town of Mardela Springs are subject to periodic inundation which results in loss of life and property, risks to health and safety, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief; and

Whereas, flood losses and associated losses are created by structures inappropriately located, inadequately elevated or otherwise unprotected and vulnerable to floods or by development which increases flood damage to other lands or development; and

Whereas, the biological values of floodplains, particularly tidal and non-tidal wetlands, can be adversely affected by floodplain development; and

Whereas, Town of Mardela Springs has the responsibility under the Flood Control and Watershed Management Act, Section 8-9A-01 et seq., Natural Resources Article of the Annotated Code of Maryland, to control floodplain development in order to protect persons and property from danger and destruction and to preserve the biological values and the environmental quality of the watersheds or portions thereof under its jurisdiction; and

Whereas, Town of Mardela Springs has the responsibility under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, to adopt and enforce floodplain management regulations which meet the requirements of 44 Code of Federal Regulations Parts 55-77, et seq., in order to participate in the National Flood Insurance Program and remain eligible for federally subsidized flood insurance, federal disaster relief, and federal and State financial assistance.

It is therefore the purpose of this Ordinance to protect human life and health; to minimize public and private property damage; to encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future; to protect individuals from unwittingly buying lands and structures which are unsuited for intended purposes because of the flood hazards; to protect water supply, sanitary sewage disposal, and natural drainage; to reduce financial burdens imposed on the community, its governmental units, and its residents by preventing the unwise design and construction of development in areas subject to flooding; to provide for public awareness of the flooding potential; and to provide for the biological and environmental quality of the watersheds or portions thereof located in Town of Mardela Springs. The provisions of this ordinance provide a unified comprehensive approach to floodplain management which addresses requirements of the federal and State programs concerned with floodplain management; namely, the National Flood Insurance Program and the President's Executive Order 11988 of May 27, 1977 on floodplain management, the State's Waterway Construction Permit Program, State

Wetlands Permit Program, the U.S. Army Corps of Engineers' Section 10 and Section 404 permit programs; and the State's Coastal Zone Management Program.

Section III: Definitions

- A. "Accessory/Appurtenant Structure" means a structure which is on the same parcel of property as the principal structure, is no greater than 300 square feet and one story, the use of which is incidental to the use of the principle structure.
- B. "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.
- C. "Break Away Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this definition a Break Away Wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Such enclosed space shall be no lower than grade and shall be useable solely for parking of vehicles, building access, or storage. If a separate storage area is provided at grade, such area shall not exceed 300 square feet. Break Away Walls which exceed the above stated safe loading resistance may be permitted only if a Registered Professional Engineer or Architect certifies that the wall shall collapse under a force less than that exerted by a One Hundred (100) Year Storm in this region without jeopardizing the structural integrity of the supporting foundation. When the design safe loading resistance exceeds 20 pounds per square foot, but is certified to collapse under a force less than that exerted by the One Hundred (100) Year Storm, the designed resistance must be stated clearly and certified independently on the building plans. The One Hundred (100) Year Storm means the level of flooding, water loads, wind speeds, duration, direction and forces which, when action simultaneously, result in severe beach erosion and overwash and have a one-percent chance of occurring each year.
- D. "Development" means any man-made change to improved or unimproved real estate, including but not limited to any construction, reconstruction, modification, extension or expansion of buildings or other structures, placement of fill or concrete, construction of new or replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations, storage of materials, land excavation, land clearing, land improvement, land fill operation, or any combination thereof. This term shall also include the subdivision of land.
- E. "Certificate of Occupancy" means the official form issued by the Town of Mandela Springs certifying that the structure has been built consistent with approved plans and may be legally inhabited or used for the intended purpose.
- F. "Elevation Certificate" means the official form as prepared and

distributed by the Federal Emergency Management Agency using Mean Sea Level as established by the National Geodetic Vertical Datum of 1929.

- G. "Flood" means a temporary inundation of normally dry land areas.
- H. "Floodplain" means (1) a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source; or (3) an area subject to tidal surge or extreme tides.
- I. "Floodproofing" means any combination of structural and non-structural additions, changes or adjustments of properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
- J. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Federal Emergency Management Agency, National Flood Insurance Program.
- K. "Manufactured Home or Building" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home or building" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.
- L. "Manufactured Home Park or Subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.
- M. "New Construction" means structures for which the Start of Construction, as herein defined, commenced on or after the date of entry into the Regular Program or the effective date of this Ordinance, whichever occurred first.
- N. "One Hundred (100) Year Flood" means a flood that has one chance in one-hundred or a one percent chance of being equalled or exceeded in any given year.
- O. "Permanent Construction" means any structure built or placed on a site for more than 180 consecutive days.
- P. "Principally Above Ground" means structures with at least 51 percent of the actual cash value of the structure, less land value, above ground.
- Q. "Sand Dunes" mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- R. "Start of Construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement occurs within

180 days of the permit date. The actual Start of Construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction, as used in this definition, does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not as part of the main structure.

- S. "Structure" means a walled and/or roofed building, including but not limited to, a gas or liquid storage tank, a building foundation, platform, deck, swimming pool, bulkhead or greenhouse that is principally above ground and affixed to a permanent site or location.
- T. "Subdivision" means the division or redivision of lots, tracts, or parcels of land by any means into two or more lots, tracts, parcels or other divisions of land, including a change in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, building or lot development.
- U. "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.
- V. "Temporary Development" means any building, construction, and/or assemblage of structures such as construction sheds, seats, canopies, tents and fences used in construction work or for temporary purposes such as reviewing stands, fairs, carnivals or flea markets which are completely removed upon the expiration of 180 days or less as stated in the permit.
- W. "Variance" means the grant of relief from the terms of this floodplain management ordinance.
- X. "Wetland" means any land which is: (1) considered "private wetland" or "State wetland" pursuant to Title 9, Wetlands and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined

as "wetland" by the U. S. Fish and Wildlife Service identification and classification procedures.

Section IV: Establishment of Floodplain District

- Town Commissioners of
A. The Mardela Springs shall establish a Floodplain District and an Official Floodplain Map to include all areas subject to inundation by the waters of the One Hundred (100) Year Flood. The source of this delineation shall be at a minimum the Flood Insurance Study for the Town of Mardela Springs, Maryland issued in , 19 , the "Flood Insurance Rate Maps", and the "Flood Boundary and Floodway Maps". The Floodplain District and the Official Floodplain Map shall be deemed an overlay on any existing, and hereafter established, zones or districts within Town of Mardela Springs. The Floodplain District and the Official Floodplain Map are established with emphasis on the One Hundred (100) Year Flood elevation where defined rather than the area graphically delineated on the Official Floodplain Maps.
- B. The Floodplain District shall be comprised of the following subdistricts:
1. Floodway - that portion of the Floodplain District required to carry and discharge the waters of the One Hundred (100) Year Flood without increasing the water surface elevation at any point more than one (1) foot above existing One Hundred (100) Year Flood conditions. The Floodway appears on the "Flood Boundary and Floodway Maps", specifically panels . This term shall also include Floodways as established by Article I, Section V, Sub-section C-1 of this Ordinance.
 2. Floodway Fringe - those portions of land within the Floodplain District subject to inundation by the One Hundred (100) Year Flood, lying beyond the Floodway (where a Floodway has been determined) or in areas where detailed study data, profiles, and One Hundred (100) Year Flood elevations have been established. The Floodway Fringe appears on the "Flood Boundary and Floodway Maps" and "Flood Insurance Rate Maps", specifically panels .
 3. Approximate Floodplain - those portions of land within the Floodplain District subject to inundation by the One Hundred (100) Year Flood, where a detailed study has not been performed but where a One Hundred (100) Year Floodplain Boundary has been approximated. A One Hundred (100) Year Flood elevation shall be established after consideration of any flood elevation and Floodway data available from Federal, State, or other sources. The Approximate Floodplain appears on both the "Flood Insurance Rate Maps" and "Flood Boundary and Floodway Maps" and may appear on all panels as Zone A.
 4. Coastal Floodplain - those portions of the Floodplain District subject to coastal or tidal flooding by a One Hundred (100) Year Flood, where detailed study data are available. The Coastal Floodplain appears on the "Flood Insurance Rate Maps" as Zones A, AE, and A1 - A30.
 5. Coastal High Hazard Area - those portions of land within the

Floodplain District, subject to inundation by coastal or tidal flooding with high velocity waters and wave action. The Coastal High Hazard Area appears on the "Flood Insurance Rate Maps" as Zones V, VE, and V1 - V30.

6. Wetland Floodplain - those portions of land within the Floodplain District subject to inundation by a One Hundred (100) Year Flood and determined to be "Wetlands" as defined in this Ordinance.
- C. The Official Floodplain Map shall be the "Flood Insurance Rate Maps", and "Flood Boundary and Floodway Maps" as prepared by the Federal Emergency Management Agency, issued on, and any subsequent amendments. The Official Floodplain Map which reflects the boundaries of the Floodplain District and its subdistricts shall be prepared and maintained in force as part of this Ordinance.
- D. The delineation of the Floodplain District may be revised, amended and modified by the ~~Town Commissioners of~~ ^{Martinsburg} in compliance with the National Flood Insurance Program and the Maryland Department of Natural Resources, when:
1. There are changes through natural or other causes to flood elevations and boundaries; and/or
 2. Changes are indicated by detailed hydrologic and hydraulic information and studies.

As soon as practicable, but not later than six (6) months after the date such information becomes available, the ~~"Town Commission"~~ shall notify the Federal Insurance Administrator of the changes by submitting technical and scientific data in accordance with the 44 Code of Federal Regulations, part 65. All such changes shall be subject to the review and approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

- E. Should a dispute concerning any Floodplain District boundary arise, an initial determination shall be made by the ~~"Town Commission"~~. Any party aggrieved by this decision may appeal to the ~~"Town Commissioners of Martinsburg"~~. The burden of proof is on the appellant.

Section V: Development Regulations

In order to prevent excessive damage to buildings and structures, the following restrictions shall apply to all new construction and substantial improvements to existing structures occurring in the Floodplain District. In the event a proposed building, structure, or substantial improvement is sited in two different subdistricts or in a subdistrict with two different One Hundred (100) Year Flood elevations the most restrictive regulation and/or higher flood elevation shall prevail.

- A. In the Floodway the following regulations shall apply:
1. All residential development shall be prohibited.
 2. No other development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying stream modification and the development is approved by all

appropriate local authorities, Maryland's Water Resources Administration and the U.S. Army Corps of Engineers.

3. All proposals to offset the effects of development in the Floodway by construction of stream modifications, shall be documented by an engineering study prepared by a Registered Professional Engineer which fully evaluates the effects of such construction and shall be submitted with the application for a Building Permit. The report shall use the One Hundred (100) Year Flood and Floodway data as prepared by the Federal Emergency Management Agency and adopted herein as the basis of the analysis. Any development allowed shall meet the requirements of Article I, Section V.B. of this Ordinance.
4. Existing non-conforming structures and/or development shall not be substantially improved unless the effect of the proposed improvement on flood heights is fully offset by accompanying stream modifications and the improvement is approved by Maryland Water Resources Administration.
 - a. Substantial improvement of a non-conforming structure and/or development regardless of location shall be undertaken only in full compliance with the provisions of this and any other applicable Ordinance.
 - b. The modification, alteration, repair, reconstruction or improvement of any kind of a non-conforming structure and/or development to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.
 - c. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.
5. The placement of any manufactured homes or buildings shall be prohibited.
6. The following shall not be placed or caused to be placed in the Floodway:
 - a. Fences, except two-wire fences; and
 - b. Other matters which may impede, retard or change the direction of the flow of water or that will catch or collect debris carried by such water, or that is placed where the natural flow of the stream or flood waters would carry the same downstream to the damage or detriment of either public or private property in or adjacent to the floodplain.

B. In the Floodway Fringe the following regulations shall apply:

1. Any development approved shall be in conformance with the requirements of the permit programs of the Maryland Department of Natural Resources, Water Resources Administration and the U.S. Army Corps of Engineers.
2. Where flood control and watershed management plans exist all

development shall be consistent with such plans.

3. The construction, reconstruction and/or modification of any residential, commercial, or industrial structure within the One Hundred (100) Year Floodplain and below the level of the One Hundred (100) Year frequency flood event shall not be permitted. Routine maintenance and alteration and repair shall be exceptions. In addition, modifications to existing structures for flood-proofing purposes shall be an exception. These modifications shall include elevating the lowest floor, as defined herein, of the structure to or above the level of one (1) foot above the elevation of the One Hundred (100) Year Flood or completely dry floodproofing as specified by the U.S. Army Corps of Engineers.
4. The elevation of the lowest floor, as defined herein, of all new or substantially improved structures shall be at least one (1) foot above the elevation of the One Hundred (100) Year Flood. Basements as herein defined are prohibited.
5. Any variances allowed under the provisions of this Ordinance shall meet the requirements specified in Article II, Section II of this Ordinance.
6. All development shall be undertaken in a manner which minimizes adverse impacts on aquatic and terrestrial habitats and their related flora and fauna.
7. Design, Anchoring, and Materials
All new construction and substantial improvements shall be:
 - a. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - b. Constructed and placed on the lot so as to offer the minimum obstruction to the flow and height of the flood water;
 - c. Constructed with materials and utility equipment resistant to flood damage; and
 - d. Constructed by methods and practices that minimize flood damage.
8. Landscape Design
 - a. Adequate ground cover shall be provided for soil stabilization within the Floodplain District.
 - b. Design of land contours and choice of plant materials shall direct surface runoff away from structures and shall not increase surface runoff onto neighboring properties.
9. Electric Systems
 - a. All electric water heaters, electric furnaces, generators, heat pumps, air conditioners, and other permanent electrical installations shall be permitted only at or above one (1) foot above the elevation of the One Hundred (100) Year Flood.
 - b. No electrical distribution panels shall be permitted at an

elevation less than three (3) feet above the elevation of the One Hundred (100) Year Flood.

10. Plumbing

- a. Water heaters, furnaces and other permanent mechanical installations shall be permitted only at or above one (1) foot above the level of the One Hundred (100) Year Flood.

11. Storage

- a. Materials that are buoyant, flammable, explosive, or that in times of flooding could be injurious to human, animal or plant life shall not be stored below one (1) foot above the level of the One Hundred (100) Year Flood.

12. Fill

Where allowed, fill material shall meet the following additional requirements:

- a. Fill shall consist of soil or rock materials only. Landfills, dumps, and sanitary soil fills shall not be permitted;
- b. Fill material shall be compacted in accordance with the Standard Proctor Test method issued by the American Society for Testing and Materials (ASTM Standard D-698) to provide the necessary stability and resistance to erosion, scouring or settling;
- c. Fill slopes shall be no steeper than one (1) vertical to two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Town Commission; and
- d. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

13. Manufactured Homes and Buildings

- a. Manufactured homes or buildings shall be elevated on permanent foundations so that the lowest floor of each manufactured home or building will be at or above one (1) foot above the elevation of the One Hundred (100) Year Flood.
- b. Adequate surface drainage and access for a manufactured home or building hauler shall be provided.
- c. When manufactured homes or buildings are to be elevated on pilings, lots shall be large enough to permit steps, pilings shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for pilings more than six (6) feet above the ground level.
- d. All manufactured homes or buildings shall be securely anchored to a properly anchored, permanent foundation to resist flotation, collapse, lateral movement and wind forces. Methods of anchoring shall include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

- e. Any addition to a manufactured home or buildings shall be similarly elevated and anchored.
- f. The owner or operator of a manufactured home park or subdivision shall file with the Disaster Preparedness Authorities of ~~Town of Mandela Springs~~, an evacuation plan which indicates alternate vehicular access and escape routes.

14. Accessory/Appurtenant Structures

Due to their minimal investment, detached garages, storage structures, and accessory structures containing less than 300 square feet and no more than one (1) story shall be exempt from the elevation or dry floodproofing standards of this Ordinance provided that all of the following stipulations are met:

- a. A statement shall be placed on the building plans which shall read as follows: "No enlargement or conversion of this area to habitable space is to occur unless the lowest floor is elevated to one (1) foot above the One Hundred (100) Year Flood elevation. At this site the One Hundred (100) Year Flood Elevation is _____."
- b. The floor elevation of the accessory structure shall not qualify as a basement and must be constructed on or above grade.
- c. The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- d. The accessory structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- e. The accessory structure shall be designed to have low flood damage potential, including provisions to allow free flow of water into and out of it to maintain equal pressure.
- f. The service facilities, such as electrical, plumbing, and heating equipment, shall be elevated to the One Hundred (100) Year Flood elevation or be floodproofed.
- g. The accessory structure shall be comprised of no more than three hundred (300) square feet and no more than one (1) story.
- h. The applicant shall be made aware that if the accessory structure is built below the One Hundred (100) Year Flood elevation and is not floodproofed, the aforesaid structure may be susceptible to higher insurance premium rates for the structure and its contents.

C. In the Approximate Floodplain the following regulations apply:

- 1. The ~~Town Commission~~ shall obtain, review and reasonably utilize any One Hundred (100) Year Flood elevation and Floodway data available from a Federal, State or other source such as the U. S. Army Corps of Engineers and Soil Conservation Service, the

State of Maryland Water Resources Administration, or any regional planning organization in the enforcement of the Ordinance within the Approximate Floodplain;

2. When the One Hundred (100) Year Flood Elevation is not known, the Town Commission in consultation with the Water Resources Administration shall evaluate each site and establish an approximate One Hundred (100) Year Flood Elevation by determining the elevation of a point on the Approximate Floodplain boundary; and

3. The Development Regulations of Section V.8. of this Ordinance shall be applied within the Approximate Floodplain.

D. In the Coastal Floodplain, the Development Regulations for the Floodway Fringe cited in Section V.B. of this Ordinance shall apply.

E. In the Coastal High Hazard Area, the following regulations shall apply in addition to the Development Regulations cited in Section V.B. of this Ordinance:

1. No land below the level of the One Hundred (100) Year Flood may be developed unless the new construction or substantial improvement:

a. Is located landward of the reach of mean high tide;

b. Is elevated on adequately anchored pilings or columns to resist flotation, collapse and lateral movement due to the effects of the One Hundred (100) Year wind and water loads acting simultaneously on all building components, and the bottom of the lowest horizontal structural members of the lowest floor (excluding the pilings or columns) is elevated to at least one (1) foot above the One Hundred (100) Year Flood elevation;

c. Has been certified by a Registered Professional Engineer or Architect that it is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash and will meet the requirements of the preceding subsection E.1.b.;

d. Has no basement and has the space below the lowest floor free of obstructions or is constructed with "Break Away Walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Such temporarily enclosed space shall not be used for human habitation; and

e. Does not utilize fill for structural support of buildings or structures.

2. Existing non-conforming uses and/or structures located on land below the level of the One Hundred (100) Year Flood shall not be expanded vertically, horizontally, or otherwise unless fully compliant with this and all other applicable Ordinances.

- ~~3. The placement of manufactured homes or buildings is strictly prohibited.~~
- ~~4. The alteration of sand dunes which would increase potential flood damage is prohibited.~~

D. In the Wetland Floodplain the following regulations shall apply in addition to the regulations cited in Article I, Section V.B. of this Ordinance:

1. The Town Commission shall obtain, review, and reasonably utilize any wetland classification data available from a Federal, State, or other source in the enforcement of the Ordinance within the Wetland Floodplain.
2. Except where specifically allowed by the Town Commissioners of Mardela Springs, and the Maryland Departments of Natural Resources, and the Environment, and the U. S. Army Corps of Engineers, the following shall be prohibited:
 - a. Filling, dumping, or excavation of any kind;
 - b. Drainage or alteration of the natural drainage and circulation of surface or ground waters.
3. When the Wetland Floodplain Boundary is unknown, obscure, or undefined the Town Commission in cooperation with or with assistance from the Maryland Department of Natural Resources shall evaluate each site.
4. All buildings and structures shall be prohibited with the exception of catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks and shelters, and other similar water-related structures which are constructed on pilings to permit the unobstructed flow of waters and preserve the natural contour of the wetland area.
5. To the maximum extent possible activities in the Wetland Floodplain will be limited to those which:
 - a. Require access to water or wetlands, or are water dependent;
 - b. Have no prudent or feasible alternative site which does not involve wetland areas; and
 - c. Will result in minimum feasible alteration or impairment to wetland functional characteristics and existing contour, vegetation, fish and wildlife resources, and hydrological conditions of the wetland area.

E. In the entire Floodplain District the design, placement and construction of all public and private utilities and facilities shall meet the following requirements:

1. New or replacement water supply systems and/or sanitary sewage systems shall be designed and floodproofed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into flood waters, and to avoid impairment during

flooding and to minimize flood damage.

- a. Cesspools and seepage pits are prohibited.
 - b. Septic tanks are permitted provided they are securely anchored to resist buoyant forces during inundation.
 - c. All pipes connected to sewage systems shall be sealed to prevent leakage.
2. All gas, electrical and other facility and utility systems shall be located, constructed, and floodproofed to eliminate or minimize flood damage.
 3. All new storm drainage facilities within and leading to or from the Floodplain District shall be adequately designed, floodproofed, and installed to eliminate or minimize property damage resulting from the flood waters of the One Hundred (100) Year Flood and to minimize adverse environmental impacts of their installation and use.

ARTICLE II - ADMINISTRATIVE PROVISIONS

Section I: Permit Requirements

A permit is required for all development (including, but not limited to, subdivision of land, construction of and/or substantial improvements to buildings and structures, placement of manufactured homes or buildings, fill, temporary development, new or replacement infrastructure, or any combination thereof) in the Floodplain District and shall be granted only after necessary permits from the State of Maryland, Water Resources Administration and all other applicable State and federal agencies have been obtained.

A. The Application for a Building Permit shall be submitted to the "Town Commission" and shall contain information including, but not limited to, the following:

1. Name and address of applicant. The applicant must be the owner or an authorized agent of the owner;
2. Name and address of owner of land on which development is proposed;
3. Name and address of contractor;
4. Site location;
5. Copies of the issued permit or a written statement from the issuing authority indicating that a permit is not required from the U. S. Army Corps of Engineers, Maryland Department of Natural Resources, Wetlands Division, and/or Maryland Department of Natural Resources, Waterway Permits Division where necessary.
6. A plan of the site showing the size and location of the proposed development as well as any existing buildings or structures;
7. Plans drawn to scale, showing the location, dimensions and elevation in mean sea level/NGVD of the site in relation to the stream channel, shoreline, Floodplain District and Floodplain

District subdistricts;

8. For substantial improvement to an existing structure, an appraisal performed by a professional real estate appraiser of the market value of existing structure (less land value) to which the substantial improvement is associated;
9. Summary description of proposed work and estimated cost; and
10. Depending on the type of development and/or structure involved and for structures to be elevated above the One Hundred (100) Year Flood Elevation, the following information shall also be included in the Application:
 - a. The size of the proposed structure(s) and its position on the lot where it is to be constructed;
 - b. The elevations of the proposed final grading and lowest floor, and the existing ground and One Hundred (100) Year Flood Elevation as certified by a Registered Professional Engineer, Surveyor or Architect;
 - c. The method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. These plans shall be prepared by a Registered Professional Engineer or Architect; and
11. If a variance is being applied for under the provisions of Article II, Section II. A.1. of this Ordinance, certification by a Registered Professional Engineer or Architect that the structure will be dry floodproofed in accordance with the specifications of the U.S. Army Corps of Engineers to one (1) foot above the One Hundred (100) Year Flood Elevation.
12. If a variance is being applied for under the provisions of Article II, Section II.A.2. of this Ordinance, the following conditions shall be met:
 - a. The structure shall be constructed with appropriate building modifications to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters, including:
 - (i) A minimum of two openings on separate sides of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and
 - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - b. A statement shall be placed on the building plans which shall read as follows: "No conversion of this area to habitable

space is to occur unless the lowest floor is elevated to one (1) foot above the One Hundred (100) Year Flood Elevation. At this site the One Hundred (100) Year Flood Elevation is

- c. The floor elevation of the structure shall not qualify as a basement and must be constructed on or above grade.
- d. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- e. The accessory structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- f. The service facilities, such as electrical, plumbing, and heating equipment, shall be elevated to the One Hundred (100) Year Flood Elevation or be floodproofed.
- g. The applicant shall be made aware that if the structure is built below the One Hundred (100) Year Flood Elevation and is not floodproofed, the aforesaid structure may be susceptible to higher insurance premium rates for the structure and its contents.

B. All proposals and permit applications for the subdivision of land and/or new development shall include a plan drawing showing the location of all existing and proposed public and private utilities, facilities, drainage structures, and road access. If the One Hundred (100) Year Flood Elevation has been determined by the Flood Insurance Study or other reliable source approved by the Water Resources Administration, such Flood Elevation(s) shall be delineated on the proposed plan. If the proposal involves more than fifty (50) lots or greater than five (5) acres and the One Hundred (100) Year Flood Elevation has not been determined for the land area, the developer shall determine the One Hundred (100) Year Flood Elevation and delineate such Flood Elevation on the proposed plan. All plans shall be certified by a Registered Professional Engineer and shall be reviewed by Tech Commission to assure that:

- 1. All such proposals are consistent with the need to minimize flood damage;
- 2. All necessary permits have been received from the State of Maryland, Water Resources Administration and appropriate Federal agencies;
- 3. All public and private utilities and facilities (including sewer, water, telephone, electric, gas, etc.) are located, constructed and floodproofed to minimize or eliminate flood damage;
- 4. Adequate drainage is provided to reduce exposure to flood hazards;
- 5. At least one access which, during the One Hundred (100) Year Flood, shall provide safe vehicular access to and egress from the subdivision and/or new development; and

6. Adequate measures have been taken to minimize adverse environmental impacts of the proposed development.
- C. Permits shall be granted only after it has been determined that the proposed work will be in conformance with the requirements of this and all other applicable codes and ordinances.
- D. When the proposed development includes the relocation or alteration of a watercourse, evidence shall be presented as part of the permit application that all adjacent communities and the Water Resources Administration have been notified by certified mail and have approved of the proposed alteration or relocation. Copies of these notifications shall then be forwarded to the Federal Emergency Management Agency, Federal Insurance Administration. In addition, the developer shall assure the Town of Martella Springs, in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.
- E. After the issuance of a building permit by the Town Commission, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Town Commission.
- F. Work on the proposed construction shall begin within 180 days after the date of issuance of the building permit or the permit shall expire, unless a time extension is granted, in writing, by the Town Commission. Work shall be complete within one year of the date of the permit unless an extension is granted in writing.
- G. During the construction period the Town Commission or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the permit and with all applicable laws and ordinances. The premises shall also be subject to inspection by the State of Maryland, Water Resources Administration. In the event that the Town Commission determines that the work is not in compliance with the permit or all applicable laws and ordinances, or that there has been a false statement or misrepresentation by the applicant, the Town Commission shall revoke the building permit and report such fact to the Town Commissioners of Martella Springs and the Maryland Water Resources Administration for whatever action it considers necessary.
- H. Work on the proposed construction shall progress steadily through project completion. Any work which resumes after a stop in work for 180 days or more shall require the issuance of a new permit.
- I. A Certificate of Occupancy shall be required for all construction and substantial improvements in the Floodplain District and shall not be issued until the Town Commission has been provided with a completed Elevation Certificate prepared by a Registered Land Surveyor or Professional Engineer certifying the "as-built" condition of the subject construction. The datum used on Elevation Certificate shall be Mean Sea Level as established by the National Geodetic Vertical Datum

of 1929.

- J. A record or log of all Floodplain District permit actions shall be maintained by the Town Commission and shall be available upon request by the Federal Emergency Management Agency or its authorized agent (the Water Resources Administration) during periodic assessments of the Town of Panama Springs participation in the National Flood Insurance Program. Such record shall include at a minimum the date the permit was issued, the as-built lowest floor elevation of all new construction or substantial improvement, the issuance date of the Certificate of Occupancy, copy of the completed Elevation Certificate, and any map amendments issued by the Federal Emergency Management Agency.

Section II: Variances

- A. Applications for variances may be considered by the Town Commissioners of Panama Springs for:

1. New construction of or substantial improvements to non-residential structures or portions thereof which will be floodproofed in a watertight fashion;
2. New construction of or substantial improvements to detached and attached garages as specified in Article II, Section I, A.10.e. which are used solely for storage or parking of vehicles and designed to automatically equalize hydrostatic pressures on walls by allowing for the entry and exit of floodwater and meet the requirements of Article II, Section I, A.12 of this Ordinance;
3. Functionally dependent uses which cannot perform their intended purpose unless they are located or carried out in close proximity to water. A functionally dependent use includes only docking facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
4. Reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or State Inventory of Historic Places.

- B. Variances shall not be granted for:

1. The placement of fill in the Floodway or the Coastal High Hazard Area;
2. New construction of or substantial improvement to any structure located in the Floodway or the Coastal High Hazard Area;
3. Manufactured homes or buildings within the Floodway and Coastal High Hazard Area; or
4. Any development within the Floodway.

- C. The granting of variances shall be subject to the following conditions:

1. A demonstration of good and sufficient cause;
 2. For new construction or substantial improvements falling in category A.3. above, a determination that failure to grant the variance would result in exceptional hardship to the applicant. Economic hardship shall not be considered exceptional;
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 4. The stipulation that all residential structures will have the lowest floor elevated to the greatest extent possible with respect to the One Hundred (100) Year Flood Elevation; and
 5. Granting of a variance from the Water Resources Administration, favorable comments from the State Coordinating Office of the Water Resources Administration, and compliance with B. and D. of this Section.
- D. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and that local public funds may not be available to mitigate the results of such variance.
- E. The Application for a Variance shall be submitted to the Town Commission and shall comply with the provisions and requirements of Article II, Section I, A.11. and 12. of this Ordinance.
- F. The applicant shall be notified in writing by the Town Commission of the increased premium rates for flood insurance and that construction below the level of the One Hundred (100) Year Flood increases risks to life and property. Such notification shall be maintained as part of the record of all variance actions as required in H. below.
- G. The applicant/owner of storage structures, garage structures, and/or accessory structures for which a variance is granted shall sign an agreement that such structures shall never be converted to habitable space.
- H. A record of all variance actions, including justifications for their issuance, shall be maintained by the Town Commission, shall be included in the Bi-Annual Report submitted to the Federal Insurance Administrator, and shall be available upon request by the Federal Emergency Management Agency or its authorized agent during periodic assessments of the Town of Mardela Springs participation in the National Flood Insurance Program.
- I. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or State Inventory of Historic Places, without regard to the procedures set forth herein provided that such activity does not cause an increase in the elevation of the One Hundred (100) Year Flood

as established and adopted by this Ordinance.

- J. Notice of the Flood Hazard and the variance action shall be placed on the deed or other documents which convey title of all newly created or recorded properties.

Section III: Penalties

- A. Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or direction of the Town Commission or any other authorized employee of the Town of Mardela Springs shall be guilty of a misdemeanor and _____
- B. Each day during which any violation of this Ordinance continues shall constitute a separate offense.
- C. The imposition of a fine or penalty for any violation of or non-compliance with this Ordinance shall not excuse the violation or non-compliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and non-compliance within a reasonable time.
- D. Any structure constructed, reconstructed, enlarged, altered, or relocated in non-compliance with this Ordinance shall be declared by the Town Commissioners of Mardela Springs to be a public nuisance and abateable as such.
- E. The Federal Insurance Administrator and the Maryland Water Resources Administration shall be notified immediately in writing of any structure or property in violation of this Ordinance.
- F. New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of this Ordinance.

Section IV: Miscellaneous

Town of Mardela Springs

A. Liability

The granting of a permit or approval is not a representation, guarantee, or warranty of any kind and shall create no liability upon the Town of Mardela Springs, its officials or employees.

B. Administrative Fees

The Town of Mardela Springs may impose additional application fees comensurate with those costs incurred in the processing, review and evaluation of permit applications for development in the floodplain district. Such costs may include but are not limited to: consultant fees for certification of as-built condition of structures; Floodplain District and sub-district delineations, environmental impact characterizations, staff assignments and other related costs.

C. Abrogation and Greater Restrictions

This Ordinance supersedes any ordinance currently in effect in the

Floodplain District. However, any other ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

D. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of proper flood hazard management and the Town of Marietta Springs; and

3. Deemed neither to limit nor repeal any other powers granted under the Annotated Code of Maryland.

Should a dispute arise concerning the interpretation of this Ordinance, the counsel of the Federal Emergency Management Agency, the Maryland Department of Natural Resources, or Federal Emergency Management Agency 44 Code of Federal Regulations shall prevail.

E. Partial Invalidity and Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

Section V. Effective Date and Subsequent Amendments

This Ordinance is hereby enacted and shall become effective

May 14, 1988, 1988 This Ordinance shall be amended as required by the Federal Emergency Management Agency, 44

Code of Federal Regulations.

SIGNED:

William G. Cox

ATTESTED BY:

Shirley M. Bailey