

ENVIRONMENTAL PROTECTION COMMISSION
FLOOD AND EROSION REGULATIONS
ADOPTED 8-6-08

Sec. 1 PREAMBLE

1.1 The Environmental Protection Commission has been charged with responsibility for: developing a storm water management plan to address flooding and erosion issues within the Town of Darien; identify potential remedies to mitigate the frequency and severity of flooding incidents; and coordinating the efforts of the Town, including appropriate town departments, boards and commissions of the Town of Darien. The Commission shall work closely with the Director of Public Works to assist the Department of Public Works to implement maintenance and improvements to the Town's infrastructure and facilities that affect flooding conditions within the Town.

Sec. 2 TITLE AND AUTHORITY

2.1 These regulations shall be known as the "Flood and Erosion Regulations of the Town of Darien."

2.2 The Flood and Erosion Control Board of the Town of Darien (the "Board") became part of the Environmental Protection Commission by ordinance adopted May 19, 1986, and the Environmental Protection Commission was given authority to implement the purposes and provisions of Chapter 477, Part II of the Connecticut General Statutes Section 25-84 et seq., Municipal Flood and Erosion Control Boards Act in the Town of Darien, now or hereafter amended.

2.3 Article II, Section 22-27 of the Darien Code effective May 19, 1986, gave the Environmental Protection Commission all the power and authority conferred upon municipal flood and erosion control boards under G.S. 25-84 et seq., including the power to promulgate regulations.

2.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of G.S. 25-84 et seq.

2.5 These regulations recognize that the Darien Planning and Zoning Commission will continue to be responsible for Flood Damage Prevention pursuant to Section 820 of the Darien Planning and Zoning Commission Regulations which implement Title 44, Chapter 1, Sections 59-75 of the Federal Register and the National Flood Insurance Program as amended.

2.6 Such board shall have authority, within the limits of appropriations from time to time made by the municipality, to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise and manage a flood or erosion control system. "Flood or erosion control system" means any dike, berm, dam, piping, groin, jetty, sea wall, embankment, revetment, tide-gate, water storage area, ditch, drain, or other structure or facility useful in preventing or ameliorating damage from floods or erosion, whether caused by fresh or salt water, or any dam forming a lake or pond that benefits abutting properties, and shall include any easements, rights-

of-way, and riparian rights which may be required in furtherance of any such system.

- 2.7 Such board is authorized to enter upon and to take and hold, by purchase, condemnation, or otherwise, any real property or interest therein which it determines is necessary for use in connection with the flood or erosion control system. Whenever the board is unable to agree with the owner of any such property as to the compensation to be paid for the taking thereof, the board, in the name of the municipality, may bring condemnation proceedings in accordance with the procedure provided by part I of chapter 835 of the Connecticut General Statutes for condemnation by municipal corporations generally. In such case, the court or judge may permit immediate possession of such property by the board in accordance with the procedure provided by said chapter. Any condemnation must be approved by the Representative Town Meeting.
- 2.8 All appropriations of municipal funds are subject to the regular appropriation procedure. At any time after voting to acquire, construct, reconstruct or maintain any flood or erosion control system or portion thereof the board in its discretion may elect to defray the cost thereof by issuing bonds or other evidences of debt, or from general taxation, special assessment, or any combination thereof subject to the approval of the representative town meeting. If it elects to defray any part of such cost from special assessment, it may apportion and assess such part upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut on such flood or erosion control system or not, and upon the owners of such lands and buildings, subject to the right of appeal as provided by state statute. Such assessment may include a proportionate share of any expenses incidental to the completion of such flood or erosion control system, such as fees and expenses of attorneys, engineers, surveyors, superintendents, or inspectors; the cost of any property purchased or acquired for such work; interest on securities; the cost of preparing maps, plans, and specifications; and the cost of printing, publishing, or serving advertisements or notices incidental thereto. The board may divide the total territory to be benefited by any flood or erosion control system into sections and may levy assessments against the property benefited in each section separately. In assessing benefits against the property in any section, the board may add to the cost of the part of the flood or erosion control system located in such section a proportionate share of the cost of any part of such system located outside the section which is useful for the operation or effectiveness of that part of such system within the section and of any of the other items of cost or expense above enumerated.
- 2.9 Whenever any assessment is made as herein provided, the amount to be raised thereby shall be apportioned among the properties benefited according to such rule as the board may adopt, based upon area, street frontage, assessed valuation of the land in the last-completed grand list of the municipality, the present or permitted use of any real property in the section, or any combination of these or other relevant factors. The board may make reasonable allowances when for any reason the particular condition or situation of any property requires such allowance. No benefits shall be assessed against any property in excess of the special benefit to accrue to such property. Assessments under this part shall

be made subject to the provisions of sections 7-139 to 7-145 inclusive of the Connecticut General Statutes.

- 2.10 If any assessment is not valid or enforceable for any reason, a new assessment may be made in the manner hereinbefore provided for the determination of the original assessment. If any assessment is made which is not sufficient to cover the entire cost of the work to be paid for by such assessment, a supplementary assessment may be made by the board against those properties previously assessed, to the end that a sum sufficient to pay the cost of such work may be obtained, provided the total of such supplementary assessment and the original assessment shall not exceed the value of the special benefit to accrue to the property against which the benefit is assessed.
- 2.11 Assessments shall be due and payable at such time as may be fixed by the board, provided no assessment shall become due until the work, or particular portion thereof for which such assessment was levied, has been completed. The board shall give notice of the date when such assessments are due and payable by publication at least twice within a period of fifteen days in a newspaper having a circulation in the municipality, listing the streets and describing the area within which are located the properties against which assessments are due. Such notice shall state the date when such assessments are due and payable, which date shall be more than thirty and less than sixty days after the date of the first such publication.
- 2.12 The board may provide for the payment of such assessments in such number of substantially equal annual installments, not exceeding twenty, as it determines, and may provide for interest charges on any deferred payments. Any person who has elected to pay his assessment in more than one installment may make payment at any time in full of the whole or such part of such assessment as still remains unpaid.
- 2.13 The proceeds of such assessments, whether or not pledged for the payment of securities, shall be segregated from other funds of the municipality and shall be used only to pay for the construction or reconstruction of the flood or erosion control system or particular portion thereof in respect to which such assessments are made or, as the case may be, for the payment of the interest on or principal of any securities issued to pay for such system or particular portion thereof.
- 2.14 Any assessment against benefited property not paid within thirty days of the due date shall thereupon be declared to be delinquent and shall be subject to interest from the due date at the same interest rate and in the same manner as provided by the general statutes in the case of delinquent taxes, provided, in the case of an assessment payable in installments, interest shall be computed on the entire unpaid balance of such assessment from the due date of the last installment which was paid, or from the due date of the assessment if no previous installment has been paid. Each addition of interest shall become, and be collectible as, a part of such assessment. Whenever any installment of an assessment becomes delinquent, any remaining unpaid installments of such assessment shall also become delinquent; provided, if all past due installments, together with interest and any other charges, have been paid in full, remaining installments may be paid without additional penalty, except for subsequent

default, in accordance with the original installment schedule.

Sec. 3 INVENTORY OF FLOODING CONDITIONS AND STORMWATER MANAGEMENT PLAN

- 3.1 The Commission shall periodically recommend to the Planning and Zoning Commission and state or federal agencies, pursuant to Section 822.c of the Darien Planning and Zoning Commission Regulations, an update to the existing inventory of flood-prone and flood-regulated erosion prone areas and suggest updates to the official map delineating said areas regulated by Planning and Zoning Commission. Copies of this map are available for inspection in the Planning and Zoning Office.
- 3.2 The Commission shall identify additional areas within the Town of Darien which may become inundated by water but are not regulated areas shown on the official Flood Insurance Rate Map (FIRM) and on the Flood Boundary and Floodway Map (MAP).
- 3.3 The Commission shall conduct an inventory of the Town's storm water collection system, including catch basins, manholes, pipes, culverts, ditches, bridges, streams, rivers, ponds, and other features of the existing system. This inventory would then be used to create a hydrologic and hydraulic model for watersheds and sub-drainage basins and to prepare a Watershed Master Plan.
- 3.4 The Commission shall develop a storm water management program, including (1) construction and post-construction site storm water runoff control, including detention control and prevention of storm water runoff from development sites or (2) control and abatement of pollution from existing land uses, and the detection and elimination of connections to the storm water system that threaten the public health, welfare, or the environment. The Commission shall: (1) provide public education and outreach relating to storm water management activities and establish procedures for public participation; (2) administer the program; (3) set boundaries for a storm water authority district; and (4) make recommendations as to whether the Town should levy on taxable real property in the storm water district to permit the commission to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, and manage storm water control systems.

Sec. 4 REVIEW OF APPLICATIONS REFERRED BY PLANNING AND ZONING COMMISSION

- 4.1 All applications for permitting of regulated activities within regulated areas shown on the official Flood Insurance Rate Map (FIRM) and on the Flood Boundary and Floodway Map together with a copy of all application materials shall be referred for application review to the Environmental Protection Commission/Flood and Erosion Control Board pursuant to Sec. 828a of the Darien Planning and Zoning Commission Zoning Regulations. Any comments made by the Environmental Protection Commission relating to review for flooding and erosion issues shall be placed into the record of the Planning and Zoning Commission application.

Sec 5 ENFORCEMENT BY DEPARTMENT OF PUBLIC WORKS

5.1 Pursuant to Section 7-148 (B) of the Connecticut General Statutes, Director of Public Works has the authority to enter into or upon any land for the purpose of correcting the flow of surface water through watercourses which prevent, or may tend to prevent, the free discharge of municipal highway surface water through said courses.

Sec. 6 SEVERANCE.

6.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards of the use of wetlands and watercourses shall govern. The invalidity of any work, clause, sentence, section, part, subsection, or provision of these regulations shall not affect the validity of any part which can be given effect without such valid part or parts.

Sec. 7 OTHER APPROVALS

7.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits, or licenses required by law or regulation by the Town of Darien, State of Connecticut, and the Government of the United States, including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permit, or licenses is the sole responsibility of the applicant.

Sec. 8 EFFECTIVE DATE

8.1 These regulations shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Darien.