

## CITY OF DARIEN

### PLANNING AND ZONING COMMISSION

Wednesday, March 20, 2019

7:00 PM

City Hall Council Chambers

1702 Plainfield Road

#### AGENDA

1. Call to Order
2. Roll Call
3. Regular Meeting:
  - A. Public Hearing - Continued  
**Case: PZC 2018-11                      Chemical Uses                      (zoning text amendment)**  
City of Darien has petitioned for approval of a text amendment of the Zoning Code, Title 5A, Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions, regarding standards for chemical-related uses and activities.
4. Correspondence
5. Old Business
6. New Business
7. Approval of Minutes
8. Next Meeting                      April 3, 2019
9. Public Comments                      [On any topic related to planning and zoning]
10. Adjournment

**AGENDA MEMO**  
**PLANNING AND ZONING COMMISSION**  
**March 20, 2019**

**Case**

PZC 2018-11                      Zoning Text Amendment                      Chemical Uses

**Petition**

The City of Darien has petitioned for approval of a text amendment of the Zoning Code regarding standards for chemical related uses and activities, currently in Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions.

**Background** (presented at the January 16 hearing)

At the October 29, 2018, City Council Goal Setting meeting the Council discussed land use regulation and oversight by City Council. "The consensus of the Council was to review the City Code and recommend revisions in land uses with the goal of minimizing uses that may pose a hazard and requirements for public notification in the case of an EPA violation".

The City Administrator has drafted a text amendment focusing on permitted and special uses that may involve problematic chemical uses and activities to be either prohibited, not allowed, or restricted in the OR&I and I-1 districts. **Attachment A** has the current code with strikeout language recommended to be deleted and highlighted/bold language recommended to be added.

The OR&I Office, Research and Light Industry District includes the new warehouse at 7879 Lemont Road, the business park at the northeast corner of Lemont and Plainfield Roads, and the business area at Wilmette Avenue and N. Frontage Road. The only I-1 General Industrial District contains the City Public Works facility and Sterling Bay property both on S. Frontage Road. **Attachment B** is a survey data on the 31 businesses in Darien in OR&I districts that have business licenses on file. Notices of this hearing have been mailed to each of these 31 businesses. **Attachment C** contains decision criteria for amendments to the Zoning Code.

**Update March 6**

This hearing was opened on January 16, 2019 and testimony was given. The PZC continued the hearing to February 6, 2019 and additional testimony was given. Subsequent written correspondence was received from:

- Peter Friedman, attorney, Holland & Knight, representing Sterling Bay, owner of 1035 S. Frontage Road – **Attachments D**
- Adam Berman, attorney, Mason Wenk & Berman, representing Darien Real Estate, owner of 7879 Lemont Road – **Attachment E**

PZC minutes from January 16 and February 6 are in **Attachment F**. Minutes from March 6 are not available yet. Correspondence from Aldermen Tom Chlystek and Lester Vaughan is in **Attachment G**.

**Update March 20**

The objectives of this text amendment are to;

1. Protect the health of the people and environment in Darien and surrounding areas.
2. Minimize the economic impact on properties that are health protective.
3. Integrate local regulation with federal, state, and county regulation that relate to hazardous materials and processes.
4. Use the City zoning authority to prohibit industrial uses that would have certain highly hazardous materials and processes.

**Attachment H** has research information. In summary, USEPA has codified a list of chemicals as being hazardous. These chemicals, such as ethylene oxide and chlorine, have a use and benefit in certain applications, so they are not prohibited by Federal or State. However, local home rule municipalities can establish regulations that are not contradictory. The USEPA, in cooperation with OSHA and the Emergency Management Agency, have set up a series of regulations. One group of regulations involves air and water monitoring around known locations of these chemicals. Another group of regulations is known as 'Tier II Reporting'. Companies and facilities that store, use, or manufacture the listed hazardous chemicals above a certain threshold must document their quantities and locations along with mitigation plans including health warnings and emergency notifications. This information is sent to IEPA and IEMA for review for compliance and then forwarded to DuPage County and the local fire districts. The Tier II designation is a reasonable basis to use in the development of local regulations.

The only Tier II Reporting locations in Darien are Home Depot and two Speedway gas stations. These are retail operations in the B zoning districts and there none are currently in the O, ORI, or I zoning districts. The City has adopted the 2015 International Fire Code, which the City and the Fire Districts enforce, which has standards for hazardous material containment and protections. The Bureaus do periodic inspections of industrial businesses and have guidelines for emergency response and notifications. **Attachment I** is correspondence from Tri-State Fire District detailing their procedures.

Some chemicals have low hazard levels and are used at such low threshold quantities, such as small propane canisters sold retail or chlorine disinfectants used at public water plants, so that their use is routinely permitted subject to handling safeguards. Other chemicals, such as ethylene oxide and uranium, have high hazard levels and are relatively more problematic. Although Darien has not yet received any applications from businesses in the O, ORI, or I-1 districts that would handle Tier II reportable chemicals, that potential exists and so the City intends to have regulations in force ahead of such an application. DuPage County amended their code in October 2018 requiring that facilities emitting more than 100 tons per year or 550 pounds per day of carbon monoxide, ethylene oxide, nitrogen oxide, or sulphur dioxide must get a conditional use permit.

**Attachment J** is the second draft of the proposed text amendment. This replaces Attachment A. The second draft would not change any of the permitted or special uses currently listed in the zoning code. It would change two sections.

1. *Section 5A-9-1-2: Prohibited Activities (in O, ORI, and I-1 districts).*

This section identifies certain explosives that are not to be permitted unless conforming to the Performance Standards in Chapter 12. The proposed text amendment would add to this section by prohibiting any business that would involve the storage, utilization or manufacture of hazardous chemicals that would be subject to the Tier II Reporting requirements as defined by USEPA.

2. *Section 5A-12-4: Performance Standards*

This section sets limits on smoke, particulates, toxics, flammables, explosives and requires certification of conformance with 'all local, State, and Federal standards'. The proposed text amendment would add to this section by requiring all businesses in the O, ORI, and I-1 districts to certify that they will not store, utilize, or manufacture hazardous chemicals that would be subject to Tier II Reporting requirements as defined by USEPA. Also, add a requirement the any business that has a hazardous chemical release or violation of Federal, State, or local regulations must notify the City immediately.

Economic impact of this proposed regulation has been a concern. One expected impact would be an increase in value that could be derived from having protections for a healthier environment for workers, residents, and visitors. There would be some businesses that would not be able to move into Darien under these proposed regulations. However, the buildings in the ORI district are fully occupied except for the last unit in the newly-constructed 7879 Lemont Road warehouse building. The only property in the I-1 district, which has just a started construction, will have one warehouse building owned by Sterling Bay. There is no evidence that these current and future building spaces cannot be fully occupied at market-level rent by companies not handling hazardous chemicals.

Enforcement of this proposed regulation could be done in several ways;

- Affidavits submitted with business license applications certifying there would be no Tier II reportable chemicals on site.
- Requiring declarations of chemicals and plans for code-required facilities for handling these chemicals be submitted with building permit and remodeling permit applications.
- Periodic inspections of all business premises by fire districts and reporting of violations they find regarding chemicals.
- Follow-up by the City to require property owners to remediate such violations.

Federal and State law specifies the notification requirements for incidents where Federal and State regulators become aware of and respond to hazardous chemical violations.



**5A-9-1-1: PROHIBITED USES:**  

No lot, parcel, or tract of land, shall be used, and no building or structure shall be erected, altered, or remodeled, for any of the following uses or uses similar thereto: **Chemical processing and manufacture**, abattoirs, arsenals, crematories, creosote treatment or manufacture; fat rendering, fertilizer manufacture; fireworks or explosive manufacture or storage; dumping, reduction or other processing of garbage, dead animals, offal or refuse, except as customarily incidental to a permitted principal use; ore reduction, petroleum processing or refining, pyroxylin manufacture, natural or synthetic rubber, caoutchouc, or gutta percha manufacture or treatment; salt works, sauerkraut manufacture, soap manufacture, smelters; stockyard or slaughter of animals or fowl; tallow, grease or lard manufacture or treatment; tanning, curing or storage of rawhides or skins, tar distillation or manufacture; or cement, concrete or asphaltic concrete mixing plants. (Ord. 0-03-00, 4-3-2000)

**5A-9-1-2: PROHIBITED ACTIVITIES:**  

No activities involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted except such as are specifically licensed by the City and are used as customarily incidental to the operation of a principal use in such quantities, and in a manner conforming with applicable performance standards set forth in Chapter 12 of this Title. Such materials shall include, but shall not be confined to: all primary explosives, such as lead oxide, lead styphnate, fulminates and tetracene; all high explosives, such as TNT, RDS, HMX, PETN, hand picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrantes, hydrazine and its derivatives; pyrotechnics and fireworks, such as magnesium powder, potassium chlorate and potassium nitrate, blasting explosives, such as dynamite and nitroglycerine; blasting explosives, such as acetylides, tetraxoles, perchloric acid, perchlorates, chlorates, hydrogen peroxide in concentrations greater than thirty five percent (35%); and nuclear fuels, fissionable materials and products and reactor elements, such as uranium 235 and plutonium. **Wholesale warehousing including those facilities that treat, store or dispose of hazardous wastes and are required to obtain a Resource Conservation and Recovery Act RCRA permit or Businesses required to complete Tier II reports required by the Federal EPCRA (Emergency Planning and Community Right to Know Act) or TRI (Toxic Release Inventory) reporting about the storage, manufacture, processing, use or release of hazardous and toxic materials**

(Ord. 0-03-00, 4-3-2000);

**5A-9-3: OR&I OFFICE, RESEARCH AND LIGHT INDUSTRY DISTRICT:**  **5A-9-3-1: INTENT:**  

The OR&I Office, Research and Light Industry District is intended to provide an environment suitable for and limited to research and development activities for **pharmaceutical, software or high technology products**, ~~engineering and testing activities~~, and related operations, office uses, and warehousing ~~and also limited manufacturing uses~~ that will not have an adverse effect upon the environmental quality of the community

No OR&I District shall be established by any new regulation unless the proposed new district area, by itself or in conjunction with any contiguous territory which either lies within the City and is already zoned OR&I or which lies within an adjacent municipality and is in a similar zoning classification, is at least six (6) acres. (Ord. 0-03-00, 4-3-2000)

### 5A-9-3-3: PERMITTED USES:

No building, structure, or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the following uses:

- (A) Laboratories, offices, and other facilities for research and development including ~~basic, applied, development, and technical services conducted by or for any individual, organization, or concern, whether public or private.~~ **pharmaceutical, software or high technology products**
- (B) ~~Production of prototype products when limited to the scale reasonably necessary for full investigation of the merits of a product, including commercial viability.~~
- (C) ~~Pilot plants in which processes planned for use in production elsewhere can be tested to the extent reasonably necessary for full investigation of the merits of a product or process including commercial viability.~~
- (D) ~~Engineering and testing laboratories and offices.~~
- (E) Offices, business or professional.
- (F) Clinics, medical and dental.
- (G) Banks and financial institutions.
- (H) ~~Light industrial activities, including, but not limited to, electronic and scientific precision instruments manufacture, cloth products manufacture, light machinery production and assembly, printing and publishing.~~
- (I) ~~Warehouses, wholesale and storage facilities, but excluding motor freight terminals.~~

(J) Civic buildings.

(K) Auxiliary retail and services.

(Ord. 0-03-00, 4-3-2000)

**5A-9-3-4: SPECIAL USES:**  

The following special uses may be permitted in specific situations in accordance with the procedures outlined in section 5A-2-2-6 of this title, as appropriate:

Brewing facilities, as defined in section 3-3-7-14, "Class N License", of this code.

Garages for storage, repair and servicing of motor vehicles, including body repair, painting and engine rebuilding.

Height limit increases as specified in subsection 5A-9-3-9(A) of this chapter.

Planned unit developments (in accordance with the requirements of chapter 3 of this title). The primary use within a planned unit development shall be one or more of the principal permitted uses, and may include any of the following uses:

Commercial services, business support services, motorist services, and employee services **and ancillary warehouse storage of their products.**

Cultural and recreational facilities, churches, auditoriums, and public gathering places.

Educational facilities.

Health clubs.

Kennels, indoor boarding only.

Restaurants.

Public and private utility facilities.

**Wholesale warehouse facility.**

(Ord. 0-03-00, 4-3-2000; amd. Ord. 0-04-02, 2-4-2002; Ord. 0-32-14, 11-3-2014; Ord. 0-02-16, 1-18-2016)

**5A-9-3-5: REQUIRED CONDITIONS:**  

The following conditions shall be required:

(A) No product shall be produced on the premises in a pilot plant primarily for sale either directly or indirectly, except with respect to such products, which, by their character, require production within a research and development environment.

(B) Auxiliary retail and services shall be incidental to the principal uses and shall be for the convenience of the tenants and employees of the building, structure or district in which located. These uses shall be conducted wholly within a building or structure and there shall be no exterior display of the auxiliary function.

(C) Outside storage is not allowed.

**(D) Wholesale warehouse facilities are intended for storage of products and materials, excluding those facilities that that treat, store or dispose of hazardous wastes and are required to obtain a Resource Conservation and Recovery Act RCRA permit or Businesses required to complete Tier II reports required by the Federal EPCRA (Emergency Planning and Community Right to Know Act) or TRI (Toxic Release Inventory) reporting about the storage, manufacture, processing, use or release of hazardous and toxic materials**

(Ord. 0-03-00, 4-3-2000)

#### **5A-9-4: I-1 GENERAL INDUSTRIAL DISTRICT:**

##### **5A-9-4-1: INTENT:**

The I-1 industrial district is intended to accommodate those **light** industrial activities which are most appropriate when remote from residential and commercial development.

No I-1 district shall be established by any new regulation unless the proposed new district area, by itself or in conjunction with any contiguous territory which either lies within the city and is already zoned I-1, or which lies within an adjacent municipality and is in a similar zoning classification, is at least ten (10) acres. (Ord. 0-03-00, 4-3-2000)

##### **5A-9-4-3: PERMITTED USES:**

No building, structure, or land shall be used and no building or structure shall be erected, altered, or enlarged, which is arranged, intended, or designed for other than one of the following uses:

#### **All uses permitted in the OR&I Office, Research and Light Industry District**

~~Abrasive manufacture.~~

Bakeries.

Banks and financial institutions.

Bottling companies.

~~Brick and structural clay products manufacture.~~

Building materials and product sales and storage.

Cartage and express facilities.

Civic buildings.

Contractor and construction offices, shops, and yards.

~~Dairy products processing.~~

~~Dry cleaning establishments and laundries.~~

~~Electronic and scientific precision instruments manufacture.~~

~~Electroplating.~~

~~Fuel and ice sales.~~

~~Furniture, bedding, and carpet manufacture.~~

~~General manufacturing and wholesaling.~~

Glass products production and sales.

~~Heavy machinery production.~~

~~Light machinery production.~~

Lithographing.

Machine shops.

~~Metal stamping.~~

Newspaper publishing.

Parking lots and garages.

~~Pottery and ceramics manufacture.~~

Printing and publishing establishments.



~~Radio and television stations and studios.~~

Schools, vocational or trade.

Semitruck, semitrailer and bus sales lot.

~~Stone products manufacture.~~

~~Warehousing, storage (including ministorage) and distribution facilities.~~

~~Wearing apparel manufacture.~~

Woodworking. (Ord. 0-03-00, 4-3-2000; amd. Ord. 0-34-10, 12-20-2010)

**5A-9-4-4: SPECIAL USES:**  

The following special uses may be permitted in specific situations in accordance with the procedures outlined in section 5A-2-2-6 of this title:

Accessory outdoor storage (in compliance with section 5A-9-1-3 of this chapter).

~~Airports and heliports.~~

Automobile service stations, repair facilities, and car washes used in conjunction with an automobile service station.

Car wash, user operated (as a principal use).

Car washes, drive-through (as a principal use).

~~Chemical processing and manufacture.~~

Eating and drinking establishments.

~~Food manufacture, packaging and processing.~~

~~Freight terminals.~~

Garages for storage, repair and servicing of motor vehicles, including body repair, painting and engine rebuilding.

~~Grain storage and processing.~~

**Laboratories, offices, and other facilities for research and development including basic, applied, development, and technical services conducted by or for any individual,**

**organization, or concern, whether public or private, excluding chemical research and development**

Landfills.

Medical cannabis cultivation centers as defined in 410 Illinois Compiled Statutes 130/10(e) and subject to the distance requirements set forth in 410 Illinois Compiled Statutes 130/105.

Medical cannabis dispensing organization as defined in 410 Illinois Compiled Statutes 130/10(o) and subject to the distance requirements set forth in 410 Illinois Compiled Statutes 130/130.

~~Paper products manufacture.~~

Planned unit developments (in accordance with the requirements of chapter 3 of this title).

Public and private utility facilities.

Recreation and social facilities.

Solar energy systems, large ground arrays.

Stadiums, auditoriums and arenas. (Ord. 0-03-00, 4-3-2000; amd. Ord. 0-13-14, 5-5-2014; Ord. 0-03-18, 2-5-2018)

**5A-12-4-8: REGISTER OF POLLUTANTS:**

It shall be unlawful for any person to install, erect, construct, reconstruct, alter or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel burning, combustion or process equipment or device or any equipment pertaining thereto, or any stack or chimney connected therewith, within the City excepting domestic heating plants, domestic refuse-burning equipment, locomotives and internal combustion engines, in the City, until there has been filed in duplicate by the owner, contractor, installer or other person, or his agent with the City, an application for a permit accompanied by a complete listing of emissions into the atmosphere that result from the operation of the aforesaid equipment or processes, both as to kind and quantity and, in addition thereto a listing of the type and capacity of the equipment used for the collection, absorption, or suppression of each and an estimate of its efficiency, and until a permit therefor has been granted by the corporate authorities of the City. Said submitted register of pollutants, and compliance with all Federal, State, and local environmental laws, shall be accompanied by an affidavit, or other proof of compliance as required by the City, of a qualified person stating that it is complete and correct and that the proper operation of the plant or process, as designed, will not result in any violation of this Title. (Ord. 0-03-00, 4-3-2000)



<b>OR&amp;I Land Use Survey</b>					
City of Darien January 2019					
Data source: Business license application submitted by licensee					
<u>Street</u>	<u>Address</u>	<u>Business Name</u>	<u>Type</u>	<u>Floor Space</u>	<u>Products</u>
Lemont	7879	Tile and Top	tile and cabinet showroom	3% office, 3% retail, 94% warehouse	stone vanity tops, wall floor tile
Lemont	8113	Multi Print and Digital	print broker	50% office, 50% warehouse	stationary, imprinted paper
Lemont	8117	A&R Diagnostic Service	commercial food equipment repair	25% office, 75% warehouse	electronic parts
Lemont	8123, #1	Cygnat Controls	electronics	30% office, 70% production	wire fasteners
Lemont	8125	AAAA Towing and Automotive	towing, auto repair	25% office, 75% service	
Lemont	8125	Darien Collision Center	auto repair, auto body	10% office, 90% service	
Lemont	8131	Safeguard Self Storage	self storage	.1% office, .7% retail, 99.2% service	retail moving supplies
Lemont	8171	Cattaneo Electric	electrical contractor	33% office, 67% warehouse	
Lemont	8191	SLIS	import and export	50% office, 50% warehouse	toys, stationary, giftware
Lemont	8191	Really Useful Products	import and export	50% office, 50% warehouse	toys, stationary, plastic, glass
Lemont	8193	Willow Farm Products	CNC machining, fabrication	20% office, 80% warehouse	metal
Lemont	8195	All Cut	precision machining	20% office, 40% production, 40% warehouse	tool steel, coolant, oil
Lemont	8197	EDM Parts	distribution	10% office, 90% warehouse	brass wire filters
Lemont	8251, #104	MFC Sports Performance	athlete training	5% office, 95% service	workout equipment
Lemont	8251, #105	The Perfect Swing	indoor batting cages	10% retail, 90% service	cage equipment
N. Frontage	1000	Uni-Carrier	messenger service	50% office, 50% warehouse	trucks, freight
N. Frontage	1000	Miskatonic Brewery	brewery, retail taproom	5% office, 20% retail, 50% production, 50% warehouse	hops, cleaning chemicals, kegs
N. Frontage	1001	Public Storage	self storage	5% office, 95% warehouse	packing supplies
N. Frontage	1100	3R Dog Training dba Dog District	dog boarding and training	10% office, 90% service	
Wilmette	8400, Unit 1	Wiltjer Plumbing	plumbing	20% office, 80% warehouse	plumbing supplies
Wilmette	8400, Suite 4	US Plumbing and Sewer	plumbing and sewers	30% office, 70% warehouse	plumbing, piping
Wilmette	8402	Sylco Manufacturing	tool and die	10% office, 80% production, 10% warehouse	
Wilmette	8402	TDS Machining	tool and die	5% office, 95% production	steel
Wilmette	8404, Unit A	Sterling Services	carpet cleaning	40% office, 60% warehouse	floor care
Wilmette	8404, Unit F	Closet Factory - Chicago South	admin office, sales showroom	15% office	
Wilmette	8404, Suite F	Vintage Confections	candy manufacture	15% office, 70% production, 15% warehouse	sugar, corn syrup, water, flavors
Wilmette	8408	Kerins Industries	trailer manufacturer	20% office, 80% warehouse	steel trailer hitches
Wilmette	8408, Unit B	Spectro Auto Body and Paint	auto body shop	20% office, 80% warehouse	paint, detail supplies, cleaning supplies
Wilmette	8412, Unit A	Super Steam Carpet Cleaning	carpet cleaning	15% office, 85% warehouse	
Wilmette	8412, Unit D	Air Ducts Done Right	ventilation cleaning system	100% service	
Wilmette	8412, Unit G	George and Sons HVAC	HVAC service	15% office, 85% warehouse	HVAC parts, equipment, tools

**CITY OF DARIEN**

**ZONING CODE**

**5A-2-2-5: AMENDMENTS:**

(G) Standards: The Plan Commission shall consider the following factors and other pertinent factors in developing a recommendation for the City Council:

1. Existing uses of property within the general area of the property in question, and the resulting character of the general area;
2. The zoning classifications of property within the general area of the property in question;
3. The suitability of the property in question to the uses permitted under the existing zoning classification including consideration of the length of time the property has been vacant as zoned;
4. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classifications and the impact to surrounding property likely to result from the proposed use;
5. The reduction in value of the subject property resulting from the particular zoning restriction as compared to the gain to the public if the property remains restricted; and
6. The policies of all current official plans or plan elements of the City.

**From:** Steven Manning  
**Sent:** Friday, February 1, 2019 1:43 PM  
**To:** Steven Manning  
**Subject:** RE: Darien zoning amendment - Case PZC 2018-11: Chemical Uses

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**From:** peter.friedman@hklaw.com <peter.friedman@hklaw.com>  
**Sent:** Thursday, January 31, 2019 5:29 PM  
**To:** Steven Manning <smanning@darienil.gov>  
**Cc:** Dan Gombac <dgombac@darienil.gov>; Bryon Vana <bvana@darienil.gov>; rfrain@SterlingBay.com  
**Subject:** Darien zoning amendment - Case PZC 2018-11: Chemical Uses

Bryon, Steven, and Dan:

On behalf of Sterling Bay, we have prepared the attached suggested text amendments to Chapter 9 of the City Zoning Code. As we discussed earlier this week, we focused on the provisions specific to the General Industrial District, rather than the regulations for the OR&I District. Thus, we did not include the suggested new provision that would make all OR&I permitted uses also permitted uses in the I District. This necessarily required us to take some of the OR&I permitted uses and put them as specific permitted or special uses in the I district regulations. Given that Sterling Bay's property is the only privately-owned I District property, we thought this made sense, as it would allow the City to tailor perhaps more restrictive regulations in the geographically more significant OR&I district without impacting the stand alone I district regulations that we are recommending.

With that said, I am attaching 2 different blacklined versions of the revised regulations, as follows:

- The PDF titled "Industrial v City Revisions" is a blackline against the City's revisions as presented at the public hearing.
- The PDF titled "Industrial v Existing Regs" is a blackline against the existing Code provisions.

Please feel free to call to discuss once you have had a chance to review. Also, Bryon, Ron is going to give you a call on this as well.

Thanks.

Peter

**Peter Friedman | Holland & Knight**

Holland & Knight LLP

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**From:** Steven Manning  
**Sent:** Friday, March 1, 2019 10:21 AM  
**To:** Steven Manning  
**Subject:** RE: Zoning Text Amendment affecting OR&I and I-1 Districts

**From:** Adam Berman <aberman@mwblawfirm.com>  
**Sent:** Thursday, February 14, 2019 9:55 AM  
**To:** Steven Manning <smanning@darienil.gov>  
**Cc:** Bryon Vana <bvana@darienil.gov>; Perry Liu (perry\_liu@bestviewintl.com) <perry\_liu@bestviewintl.com>; Mike Plumb <mplumb@lee-associates.com>; Brian Vanosky <bvanosky@lee-associates.com>  
**Subject:** Zoning Text Amendment affecting OR&I and I-1 Districts

Dear Mr. Manning:

As a follow-up my brief conversation with you on February 8, 2019, our firm represents Darien Real Estate, LLC ("DRE"), the owner of the multi-tenant industrial building located at 7879 Lemont Road, Darien, Illinois. DRE's affiliated company, Tile & Top, LLC, occupies approximately 38% of the Building and warehouses custom tile and counter tops. 28% of the Building was recently leased to Hallstar Beauty where they intend to warehouse, conduct light manufacturing and engineering activities relating to beauty, skin care and hair care products, and 18% of the Building was recently leased to Club Fusion for an indoor volleyball training facility. There still remains a vacancy of approximately 25,000 square feet in the Building.

We have reviewed the proposed zoning text amendment to the OR&I District, and while DRE applauds the City's efforts to minimize business uses that pose a hazard to the public, DRE is concerned that the proposed zoning text amendment is over-reaching. For example, warehousing should always be a permitted use in the OR&I District. You should note that the vast majority of commercial warehousing is for inventory and materials that are not hazardous, but yet the City is proposing to eliminate warehousing as a permitted use. Also, general engineering and testing labs are quite common and expected in research districts, and so the elimination of them is puzzling and troubling.

In particular, we recommend the following:

1. The description of prohibited activities should be expanded to include facilities that process or manufacture regulated hazardous waste and chemicals, not merely store or use them.
2. Reinstate the list of permitted uses that were deleted, as these are, and always have been considered, general uses which are customary and appropriate for research and light manufacturing zoning districts.
3. Warehousing that involves the storage of certain hazardous materials or chemicals may be subject to a special use permit.

Eliminating uses that are recognized as permitted in comparable OR&I districts in the area will unnecessarily put Darien at a competitive disadvantage in business development.

Attached are our suggested handwritten changes to the City's proposed text amendment. Since our client's property is not in the I-1 district, we did not comment on those changes, but understand that you received comments from counsel for Sterling Bay. We would be willing to meet with staff if necessary to further discuss our thoughts and concerns. If you have any questions, feel free to contact me.

In addition, please let us know when the Plan Commission is expected to next hear this matter. Thanks.

**Adam E. Berman**  
 Partner



Mason, Wenk + Berman LLC

**Mason, Wenk + Berman LLC**

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Fax: 847.715-1962

[aberman@mwblawfirm.com](mailto:aberman@mwblawfirm.com)

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PZC 1-16-19

Mr. Manning reported that most of the lots in the neighborhood are 75 feet wide with some even more narrow. He said that apparently this lot has never been built on before and was approved prior to annexation.

Chairperson Mallers opened the meeting to anyone wishing to present public comment.

The petitioner, Mr. Marius Grigoras reported that he presently lives in Bensenville and would like to build a two story house with a basement and attached garage for his family.

Commissioner Erickson stated that he believed there were a couple homes built recently on Roger Road.

Mr. Manning reported that the newer houses are on wider lots and conformed to the code.

Commissioner Sullivan stated that the home would fit in with the area.

Commissioner Desmond questioned if anyone has tried to build on this lot.

Mr. Manning said no, not to his knowledge.

Chairperson Mallers stated that this has been a vacant lot for a number of years and will be an improvement to the neighborhood. He reported that there were no comments from the neighbors.

Commissioner Gay questioned if there any requests for curb cut on the back of the property.

Mr. Manning reported that there were not.

There was no one in the audience wishing to present public comment.

**Commissioner Desmond made a motion and it was seconded by Commissioner Sullivan to approve the variation for Section 5A-7-2-5(A) of the Zoning Code that otherwise requires a 75 foot lot width for a proposed house to be built on a vacant lot commonly known as 313 Roger Road and that the petitioner meets all the variation City and State Criteria improving the character of the neighborhood.**

**Upon roll call vote, THE MOTION CARRIED 8-0.**

Chairperson Mallers announced that this would be forwarded to the Municipal Services Committee on Monday, January 28<sup>th</sup> at 6:30 p.m.



**C. Public Hearing Case: PZC 2018-11 - Chemical Uses (zoning text amendment) City of Darien has petitioned for approval of a text amendment of the Zoning Code, Title 5A, Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions, regarding standards for chemical-related uses and activities.**

Mr. Steve Manning, City Planner reported that at the October 29, 2018 City Council Goal Setting meeting the Council discussed land use regulation and oversight by the City Council. He reported that the consensus of the Council was to review the City Code and recommend revisions in land uses with goal of minimizing uses that may pose a hazard and requirements for public



notification in a case of an EPA violation. He said that staff is hoping to get good input at these hearings to help refine the text of the amendment.

Chairperson Mallers opened the meeting to anyone wishing to present public comment.

Mr. Ron Swanson, Cygnet Controls Inc. stated that he started his business in the 80s and that he was next to Sterigenics. He stated that in the 90s they redeveloped the industrial park in Darien that was proposed contaminated and it was cleaned up by Rockwell. Mr. Swanson stated that he was concerned that light manufacturing was being considered eliminated. He displayed a product of what he builds to the PZC and stated that he builds control panels and that the process does not involve chemicals. He stated that his business has been in Darien since the 90s the employees live in the community. Mr. Swanson stated that he was specifically referring to letter h. of the document and that there are a lot of companies in Darien that fall under the same category. He asked that the City not eliminate (h) in the list of permitted uses in the ORI district, which includes 'light industrial uses'.

Commissioner Desmond questioned if there is any industrial waste.

Mr. Swanson stated that he does not and in fact he has less than is what is in a home garage.

Mr. Manning stated that this request was initiated by the City Council to look at deleting uses that have chemical processing or storage and to minimize such hazardous uses. He reported that staff has put together a draft code amendment and that the process will take at least two hearings. He explained that the text amendment identifies certain uses in the OR&I, Research and Light Industry District limiting business process or land uses with chemical manufacturing classified by Tier II under the EPA. He stated that there is also language regarding storage.

Mr. Paul Schoenbeck, 1000 Frontage Road stated that elimination will hinder building owners opportunity to secure tenants and that elimination will take the "R" out of research and that the City needs to look at this case by case. Mr. Schoenbeck stated that 31 properties in Darien is not a lot and that this would create hardship for tenants and people to come into Darien.

Mr. Keith Lang, 8101 Clarendon Hills Road stated that he owns a building next to Ron and that he agrees with Paul. He stated that he is concerned that his building rentals will decrease and that the permit process involves review by the City and that case by case is a much better solution.

Commissioner Desmond asked for an example so that he could better understand.

Mr. Lang stated that he has a tenant who has an auto body shop who does body work to cars which requires paint and falls under warehousing. He stated that the general term warehousing is a concern.

Commissioner Desmond stated that the concern is in tenants with strong chemicals that fall within the Tier II category.

Mr. Lang stated that the term is too broad and that the City cannot strike warehouse and industrial.

Mr. Schoenbeck stated that with restrictions the uses that are struck will make it difficult to rent space. He stated that when realtors work to rent the space that they do not get into details and all they will see is that warehousing will be out.

Mr. Josh Mallory, Miskatonic Brewing Company stated that nothing in the area comes close to EPA Tier II. He stated that he reviewed the list and that there are uses that are struck that should not be struck. Mr. Mallory stated that the City should require the business to identify if they fall under Tier II.

Mr. Bryon Vana, City Administrator stated that he appreciated the discussion and that there were a lot of good points. He stated that the process for regulating chemicals is above the municipality and that a company is required to present material data sheets. Mr. Vana stated that the City is looking at a broad range of uses instead of specifics.

Mr. Lang stated that the City does not have to eliminate anything but rather look at Tier II. He stated that it is too hazy and that eliminating Tier II will require a business to go for a special use permit.

Mr. Vana stated that he will discuss with the City Attorney to get more specifics.

Chairperson Mallers stated that the process is in motion and that there are a lot of moving parts..

Mr. Peter Friedman, Attorney representing Sterling Bay, 1035 S. Frontage Road stated that they will submit written comments regarding the draft. He stated that he has extensive knowledge of industrial zoning and applauded the City for modernizing the code. Mr. Friedman stated that he will work with staff to provide Sterling Bay's proposal and that he liked the discussion regarding eliminating certain chemicals.

There was no one else in the audience wishing to present public comment.

**Commissioner Erickson made a motion and it was seconded by Commissioner Stompanato to continue Public Hearing Case: PZC 2018-11 to the next regular meeting of the PZC on February 6, 2019.**

**Upon roll call vote, THE MOTION CARRIED 8-0.**

Mr. Manning stated that he welcomes any comments.

Commissioner Sullivan questioned if the businesses were notified.

Mr. Manning reported that a public notice is required for a Text Amendment and also the notice was mailed as well to the 31 businesses in the ORI district.

### **CORRESPONDENCE**

None

### **OLD BUSINESS**

None

**MINUTES  
CITY OF DARIEN  
PLANNING & ZONING COMMISSION MEETING  
February 6, 2019**

**PRESENT:** Robert Cortez, Michael Desmond, Robert Erickson, Brian Gay, Mary Sullivan, Ralph Stompanato, Steven Manning - City Planner

**ABSENT:** John Laratta, Brian Liedtke, Lou Mallers

Acting Chairperson Robert Cortez called the meeting to order at 7:00 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present and swore in the audience members wishing to present public testimony.

**REGULAR MEETING:**

**A. Public Hearing - Continued**

**Case: PZC 2018-11 Chemical Uses (zoning text amendment)**

**City of Darien has petitioned for approval of a text amendment of the Zoning Code, Title 5A, Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions, regarding standards for chemical-related uses and activities.**

Mr. Steve Manning, City Planner reported that at the last hearing Mr. Peter Friedman, attorney representing Sterling Bay was present and asked for time to prepare a written testimony. Mr. Manning reported that staff has received written testimony and that the City Administrator would like to go through his letter and respond and therefore asking for a continuation to the March 6, 2019 meeting. He reported that the letter will be provided in the next meeting packet.

Acting Chairperson Cortez opened the meeting to anyone wishing to present public comment.

Mr. Keith Lang stated that he watched the City Council meeting and it seemed that the Sterogenics problems are Tier II. He stated that there are only three permits in the City of Darien and he questioned why the City is changing anything when there is not a problem in Darien.

Mr. Manning reported that the intent is to take a proactive approach and that this was at the direction of the City Council to investigate the topic.

Acting Chairperson Cortez stated that the City is taking a proactive approach to align for the future and that he felt it was not a bad idea.

Mr. Lang stated that his business was all that he has and that it seems anti-business and that the changes will affect his business.

Commissioner Desmond stated that it is not the intent to drive business away and that there are clearly things that need to be revised. He stated that this is a process and that the Committee is cognizant of what is happening. He further stated that the City is being proactive.

Mr. Manning reported that the goal is to have final language by March 6th.



Bryan Vana - City Administrator  
Mayor - Kathleen Mosele Weaver,  
City Council of Darien  
City of Darien  
1702 Plainfield Rd.  
Darien, IL 60561

September 26, 2018

Re: Updated City Ordinances for Residents Safety

To City Administrator Bryan Vana, Mayor Weaver, City Council

During Monday's Municipal Services Committees I brought up that our City has prohibited uses, and prohibited activities called out in Chapter 9 of the City Ordinances.

Ordinances 5A-9-1-1 calls out specific prohibited uses such as abattoirs, arsenals, fat rendering, fertilize manufacturing, fireworks or explosives manufacture, petroleum processing or refining, just to name a few of the items that are called out as prohibited uses. All of these uses are a danger to the community especially to the residents of the City of Darien and is why the City of Darien prohibits their uses.

In light of what is happening at the Sterigenics Facility in Willowbrook, and the dangers associated with the use of Ethylene Oxide Sterilization I am requesting staff, with the support of City Council to update this section of City Code to prohibit Ethylene Oxide Sterilization in the City of Darien. I would request that his update to the ordinance be brought to a vote within a month.

In Section 5A-9-1-2 Prohibited Activities, the City Ordinance prohibits the use of many chemicals in the City of Darien such as chlorates, uranium 235, blasting explosives, tetraxoles, perchloric acids, and nuclear fuels to name just a few chemicals that are banned. I am requesting staff with the support of council to update the ordinance to include the ban of Ethylene Oxide as well, and to bring this forth for a vote within a month.

Lastly, I am requesting a third update to city ordinances that would require any company that has been fined by the EPA for air or water pollution violation, regardless of amount to immediately send a notice by mail within 2 weeks of receiving the fine notifying residents of the pollution, and how they plan on remedying the issue. This is to ensure the health and safety of all residents.

I look forward to working with our Mayor, City Council, and Staff to update our city ordinances and to make sure our residents safety is our utmost priority.

A handwritten signature in black ink, appearing to read "Tom Chlystek", written over a horizontal line.

Alderman Tom Chlystek

City of Darien 1702 Plainfield Road Darien, IL 60561

Office: 630-852-5000 Fax: 630-852-4709 www.darienil.us

Email from Alderman Vaughan 10-17-2018

Hi Bryon,

Per our conversation on Monday after the City Council. Here's is what I was trying to convey to the council as some proactive measures that we should take in the event that something like Sterigenics surfaces again. I know that Tom has proposed something similar to the banning of ETO, however, I was hoping that we could include some the bullet points I have outlined below.

What we have learned from Willowbrook and Sterigenics to help us move forward in a more informed, transparent way as a city:

- Sterigenics had at least 2 or 3 incidents where they were cited, or a violation action was initiated against them.
  - o In 2015 they were charged by the Attorney General's Office for water pollution and creating a water pollution hazard, related to a 2013 spill of glycol into the ground and water. They settled this with a "consent order" in 2015 and paid a fine.
  - o There are reportedly other instances of leaks of large amounts of EtO into the air where regulatory agencies got involved.

Despite these environmental hazard issues, local residents were apparently not notified. So, while the agencies may have gotten involved, no one who lives or works nearby was informed. This created a lack of trust.

**I would propose an ordinance or other mechanisms to ensure the following:**

- a. That any company doing business in Darien which uses, transports or is otherwise involved in an activity which has the possibility of becoming an environmental or public hazard have a heightened reporting requirement with the City.
- b. If any business in Darien is notified by any regulatory agency that it may have or did violate a rule/code, etc. that could impact the environment or health of residents, that business must notify the City of Darien within a reasonable amount of time (a few days?) and further, that the City notify residents within a reasonable amount of time as well.

The language of the ordinance can be worked out, but the idea behind it is transparency. We want residents to know that they will be notified if a company in Darien engages in any activity that could jeopardize their health or the environment. We don't want decades, years or months go by where residents could make informed decisions for their families as we see with Sterigenics.

Please let me know if you have any questions or concerns. I look forward to speaking with you soon.

Best Regards,

Lester Vaughan  
[lester.vaughan@gmail.com](mailto:lester.vaughan@gmail.com)  
708.359.0817c

An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

Close



# Summary of the Emergency Planning & Community Right-to-Know Act

## Quick Links

The official text of EPCRA is available in [the \*United States Code\*](#) from the US Government Publishing Office

## 42 U.S.C. §11001 et seq. (1986)

Authorized by Title III of the Superfund Amendments and Reauthorization Act (SARA), the Emergency Planning & Community Right-to-Know Act (EPCRA) was enacted by Congress as the national legislation on community safety. This law is designed to help local communities protect public health, safety, and the environment from chemical hazards.

To implement EPCRA, Congress requires each state to appoint a State Emergency Response Commission (SERC). The SERCs are required to divide their states into Emergency Planning Districts and to name a Local Emergency Planning Committee (LEPC) for each district.

Broad representation by fire fighters, health officials, government and media representatives, community groups, industrial facilities, and emergency managers ensures that all necessary elements of the planning process are represented.

## Compliance and Enforcement

- [EPCRA Reporting](#)
- [Waste, Chemical and Cleanup Enforcement](#)

## History of this Act

- [EPA History: Superfund](#): Including information about EPCRA



## What is Tier II Reporting?

Tier II reports are forms that organizations and businesses in the United States with hazardous chemicals above certain quantities, are required to fill out by the EPA. Known officially as Emergency and Hazardous Chemical Inventory Forms, Tier II Reports are submitted annually to local fire departments, Local Emergency Planning Committees (LEPC) and State Emergency Response Commissions (SERCs) to help those agencies plan for and respond to chemical emergencies.

Mandated by Section 312 of the Emergency Planning and Community Right-To-Know Act (EPCRA) – also known as SARA Title III – the Tier II form captures information about the types, quantities and locations of hazardous chemicals at a given facility. The form also lists contact information for the facility's designated emergency point-of-contact.

EPCRA actually allows for the submission of either a Tier I or Tier II report. However, since the Tier II report includes all of the information found on the Tier I, plus additional information, most states require the comprehensive Tier II report. To see the Tier II reporting obligations for your state, visit the EPA website and click on the name of your state from the list provided.

To determine if you have chemicals in quantities that require Tier II reporting, check the EPA's List of Lists. MSDSonline's HQ and HQ RegXR accounts make determining your reporting obligations and generating submittable Tier II reports easy.

## Tier II Violations

Tier II reports are due March 1 for the previous calendar year. Penalties for violations of Section 312 of SARA Title III can reach up to \$27,500 for each violation. Fines add up quickly since each day a violation continues to exist constitutes a separate violation.



An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

Close



# Consolidated List of Lists under EPCRA/CERCLA/CAA §112(r) (March 2015 Version)

## Substance Registry Services

EPA's Substance Registry Services (SRS) database can be used to search for a specific chemical name or Chemical Abstract Service (CAS) registry number. It provides the regulations and statutes applicable to the chemical. Regulatory lists include those managed by EPA and other federal agencies and states. SRS can also be searched by a specific regulatory list and shows all the chemicals on that particular list.

## Purpose

The List of Lists is a consolidated list of chemicals subject to:

- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and
- Section 112(r) of the Clean Air Act (CAA).

It was prepared to help facilities handling chemicals determine, for a specific chemical, whether they may be subject to certain reporting requirements. These lists should be used as a reference tool, not as a definitive source of compliance information. Please refer to the following requirements in the appropriate part of the Code of Federal Regulations (CFR):

- Emergency planning notification under EPCRA section 302 (40 CFR Part 355)
- Emergency release notification under EPCRA section 304 (40 CFR Part 355)
- Toxic chemical release reporting under EPCRA section 313 (40 CFR Part 372)
- Hazardous substances release notification under CERCLA sections 102-103 (40 CFR Part 302)
- Accidental release prevention requirements under CAA 112(r) (40 CFR Part 68)

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of March 5, 2019

Title 40 → Chapter I → Subchapter J → Part 355 → Subpart D → Appendix

Title 40: Protection of Environment  
 PART 355—EMERGENCY PLANNING AND NOTIFICATION  
 Subpart D—Additional Provisions

APPENDIX A TO PART 355—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
75-86-5	Acetone Cyanohydrin		10	1,000
1752-30-3	Acetone Thiosemicarbazide		1,000	1,000/10,000
107-02-8	Acrolein		1	500
79-06-1	Acrylamide	f	5,000	1,000/10,000
107-13-1	Acrylonitrile	f	100	10,000
814-68-6	Acrylyl Chloride	d	100	100
111-69-3	Adiponitrile	f	1,000	1,000
116-06-3	Aldicarb	b	1	100/10,000
309-00-2	Aldrin		1	500/10,000
107-18-6	Allyl Alcohol		100	1,000
107-11-9	Allylamine		500	500
20859-73-8	Aluminum Phosphide	a	100	500
54-62-6	Aminopterin		500	500/10,000
78-53-5	Amiton		500	500
3734-97-2	Amiton Oxalate		100	100/10,000
7664-41-7	Ammonia	f	100	500
300-62-9	Amphetamine		1,000	1,000
62-53-3	Aniline	f	5,000	1,000
88-05-1	Aniline, 2,4,6-Trimethyl-		500	500
7783-70-2	Antimony Pentafluoride		500	500
1397-94-0	Antimycin A	b	1,000	1,000/10,000
86-88-4	ANTU		100	500/10,000
1303-28-2	Arsenic Pentoxide		1	100/10,000
1327-53-3	Arsenous Oxide	d	1	100/10,000
7784-34-1	Arsenous Trichloride		1	500
7784-42-1	Arsine		100	100
2642-71-9	Azinphos-Ethyl		100	100/10,000
86-50-0	Azinphos-Methyl		1	10/10,000
98-87-3	Benzal Chloride		5,000	500
98-16-8	Benzenamine, 3-(Trifluoromethyl)-		500	500
100-14-1	Benzene, 1-(Chloromethyl)-4-Nitro-		500	500/10,000
98-05-5	Benzeneearsonic Acid		10	10/10,000
3615-21-2	Benzimidazole, 4,5-Dichloro-2-(Trifluoromethyl)-	c	500	500/10,000
98-07-7	Benzotrichloride		10	100
100-44-7	Benzyl Chloride		100	500
140-29-4	Benzyl Cyanide	d	500	500
15271-41-7	Bicyclo[2.2.1]Heptane-2-Carbonitrile, 5-Chloro-6-(((Methylamino)Carbonyl)Oxy)Imino)-, (1s-(1-alpha,2-beta,4-alpha,5-alpha,6E))-		500	500/10,000
534-07-6	Bis(Chloromethyl) Ketone		10	10/10,000
4044-65-9	Bitoscanate		500	500/10,000
	Boron Trichloride		500	500

## GENERAL CHEMICAL INVENTORY REPORTING REQUIREMENTS

### 1. LAW

Illinois Emergency Planning and Community Right to Know Act (IEPCRA)  
430 ILCS 100; 29 Ill. Adm. Code 620

### 2. WHO MUST REPORT?

Any facility that has present onsite

- (a) a **hazardous chemical** for which OSHA requires a safety data sheet (SDS) *and*
- (b) the chemical is **present in certain threshold quantities**

### 3. WHAT IS A “HAZARDOUS CHEMICAL?”

For purposes of IEPCRA, a “hazardous chemical” is defined as any chemical that causes a physical and/or health hazard (Occupational Safety and Health Act’s [OSHA’s] 2012 Hazard Communication Standard [HCS 2012]). The number of such chemicals has been estimated at over 500,000 and there is no list available. It is acceptable to assume that any chemical for which a SDS lists *any* type of hazard is covered by IEPCRA. HCS 2012 includes updated definitions of physical hazard and health hazard as well as a 16-part SDS format. Additional SDS information may be found at [Hazard Communication | Occupational Safety and Health Administration](#).

### 4. WHAT QUANTITIES TRIGGER REPORTING REQUIREMENTS?

If the chemical is **hazardous**, the threshold quantity is 10,000 pounds or more.

If the chemical is an **extremely hazardous substance (EHS)**, the threshold is 500 pounds or the threshold planning quantity (TPQ), whichever is less. For instance, chlorine is an EHS and its TPQ is 100 pounds; therefore, if a facility has present onsite at least 100 pounds of chlorine, the facility is required to file an emergency and hazardous chemical inventory form (commonly referred to as a “Tier II Form”) for chlorine.

### 5. WHAT ARE THE REPORTING REQUIREMENTS?

(a) An emergency and hazardous chemical inventory form, commonly referred to as a “Tier II Form,” which reports the following information\*:

- facility identification including latitude/longitude coordinates for standard and non-standard addresses and if the facility is manned/unmanned
- is facility subject to EPCRA 302 (EHS), EPCRA 313 Toxic Release Inventory (TRI) and/or Clean Air Act (CAA) 112® Risk Management Program (RMP). If yes to TRI and/or RMP, must enter facility’s ID#
- contact information for facility emergency coordinator and Tier II contact (including e-mail addresses)
- name and telephone number of at least two emergency contacts
- name, mailing address, telephone number and e-mail address of owner/operator
- chemical identification including chemical name, description, physical and health hazards and locations, and whether or not chemical is an EHS. Must provide



## State Emergency Response Commission (SERC)

The goal of the State Emergency Response Commission (SERC) is to promote chemical emergency preparedness and prevention throughout the state of Illinois. The SERC, through implementation of emergency planning and community right-to-know laws and through establishment and support of its Local Emergency Planning Committees (LEPCs), assists in chemical emergency planning, provides public access to chemical data, raises public awareness of chemical risks and encourages public participation in local chemical safety issues.

IEMA's TIER II MANAGER™ On-line Filing System

IEMA's Emergency Release Notification Fact Sheet

LEPC Release Reporting Contacts

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### **May 7, 2014: Emergency US DOT Order Requiring Crude Oil Rail Shipment Notifications to State Emergency Response Commissions (SERCs)**

Click here for US DOT's Emergency Order

Pursuant to the above-referenced order, any SERC notifications should be sent to the following:

*Acting Director, Alicia Tate-Nadeau  
c/o Mr. Bill Conway  
Illinois SERC  
2200 South Dirksen Parkway  
Springfield IL 62703-4528*

### **Notifications must contain the following information:**

The notification must provide information regarding the estimated volumes and frequencies of train traffic implicated. Specifically, the notification must: (a) provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel, per week, through each county within the state; (b) identify and describe the



## Steven Manning

---

**From:** Steven Manning  
**Sent:** Thursday, March 14, 2019 1:37 PM  
**To:** Steven Manning  
**Subject:** RE: Tier Two Reports

**From:** Lawrence Link <[lawrencelink@tristatefd.com](mailto:lawrencelink@tristatefd.com)>  
**Sent:** Thursday, March 14, 2019 12:19 PM  
**To:** Steven Manning <[smanning@darienil.gov](mailto:smanning@darienil.gov)>  
**Subject:** Tier Two Reports

No Tier II reports have been received by Tri-State FPD for the City of Darien.

Tier II reports must be submitted to the IEPA for chemicals that meet or exceed the reportable quantities. They must also be submitted separately to the Fire Department and the Local Emergency Planning Committees (LEPCs)

We ensure that materials are stored and protected to the standards of IFC and NFPA. This will include how the material is stored (heights, shelves, orientation, etc.) and how it is protected with suppression systems, fire alarm systems and detection systems.

We can ensure that maximum quantities per fire area are not exceeded. All of this is dependent upon the fire district having the opportunity to review plans as units are built, built out or either tenants or ownership changes.

This is an example of an annual life safety inspection done in Darien:

*"This report was completed by a member of the Tri-State Fire Prevention Bureau, based upon their fire safety inspection of the premises you occupy. The Fire Prevention Code specifies that this notice shall be served upon the occupant since the Fire Prevention Bureau has no way of determining if specific hazards must be remedied by the owner, or by the tenant, if any. You are required by law to correct the fire hazards indicated herein, but consider this; You have received a service for which your taxes pay. This notice tells you where fires could start or spread. Removing the hazards will put you in compliance with fire rules, regulations, codes and laws. Your corrective action will help prevent a fire that could interrupt or end your business, and kill or injure those who occupy your premises. Please correct these hazards before the time indicated below as the re-inspection date. Fees and fines may be incurred. It is your responsibility to contact your local municipality to determine whether or not permits are required for construction, electrical, mechanical, sprinkler or plumbing repairs."*



**CITY OF DARIEN  
DU PAGE COUNTY, ILLINOIS**

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE DARIEN ZONING CODE  
SECTION 5A-9-1-2 PROHIBITED ACTIVITIES AND  
SECTION 5A-12-4-8 REGISTER OF POLLUTANTS**

**(PZC 2018-11: Chemical Uses)**

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**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
OF THE  
CITY OF DARIEN**

**THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019**

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**Published in pamphlet form by authority of  
the Mayor and City Council of the City of  
Darien, DuPage County, Illinois, this \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, 2019.**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE DARIEN ZONING CODE  
SECTION 5A-9-1-2 PROHIBITED ACTIVITIES AND  
SECTION 5A-12-8 REGISTER OF POLLUTANTS**

**(PZC 2018-11: Chemical Uses)**

**WHEREAS**, the City of Darien is a home rule unit of local government pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government except as limited by Article VII, Section 6; and

**WHEREAS**, the City of Darien has adopted Zoning Regulations set forth in the Darien City Code Title 5A; and

**WHEREAS**, the City Council has deemed it reasonable to periodically review said Darien Zoning Code and make necessary changes thereto; and

**WHEREAS**, pursuant to proper legal notice, a public hearing was held before the Planning and Zoning Commission on January 16, 2019 and continued to February 6, March 6, and March 20, 2019 regarding this matter; and

**WHEREAS**, the Planning and Zoning Commission filed its findings and recommendations with the City Council recommending approval of the text amendment described herein; and

**WHEREAS**, on \_\_\_\_\_, 2019 the Municipal Services Committee has filed its findings and recommendations with the City Council recommending approval of the text amendment described herein; and



**ORDINANCE NO.** \_\_\_\_\_

**WHEREAS**, the City Council approves and adopts the findings and recommendations of the Municipal Services Committee and incorporates such findings and recommendations herein by reference as if they were fully set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS**, as follows:

**SECTION 1:** Section 5A-9-1-2 of the City Code of Darien and is hereby amended by adding the following sentence at the conclusion thereof (new language underscored):

No activities involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted except such as are specifically licensed by the City and are used as customarily incidental to the operation of a principal use in such quantities, and in a manner conforming with applicable performance standards set forth in Chapter 12 of this Title. Such materials shall include, but shall not be confined to: all primary explosives, such as lead oxide, lead styphnate, fulminates and tetracene; all high explosives, such as TNT, RDS, HMX, PETN, hand picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrantes, hydrazine and its derivatives; pyrotechnics and fireworks, such as magnesium powder, potassium chlorate and potassium nitrate, blasting explosives, such as dynamite and nitroglycerine; blasting explosives, such as acetylides, tetraxoles, perchloric acid, perchlorates, chlorates, hydrogen peroxide in concentrations greater than thirty five percent (35%); and nuclear fuels, fissionable materials and products and reactor elements, such as uranium 235 and plutonium. Businesses that would involve the storage, utilization, or manufacture of hazardous chemicals subject to the Tier II Reporting requirements as defined by USEPA are prohibited.

ORDINANCE NO. \_\_\_\_\_

**SECTION 2:** Section 5A-12-4-8 of the City Code of Darien and is hereby amended by adding the following sentence at the conclusion thereof (new language underscored):

It shall be unlawful for any person to install, erect, construct, reconstruct, alter or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel burning, combustion or process equipment or device or any equipment pertaining thereto, or any stack or chimney connected therewith, within the City excepting domestic heating plants, domestic refuse-burning equipment, locomotives and internal combustion engines, in the City, until there has been filed in duplicate by the owner, contractor, installer or other person, or his agent with the City, an application for a permit accompanied by a complete listing of emissions into the atmosphere that result from the operation of the aforesaid equipment or processes, both as to kind and quantity and, in addition thereto a listing of the type and capacity of the equipment used for the collection, absorption, or suppression of each and an estimate of its efficiency, and until a permit therefor has been granted by the corporate authorities of the City. Said submitted register of pollutants shall be accompanied by an affidavit of a qualified person stating that it is complete and correct and that the proper operation of the plant or process, as designed, will not result in any violation of this Title. Businesses in the O, ORI, and I-1 districts that apply for a business license shall certify that they will not store, utilize, or manufacture hazardous chemicals subject to the Tier II Reporting requirements as defined by USEPA. Any business that has a hazardous chemical release or violation of Federal, State, or local regulations shall notify the City immediately.

ORDINANCE NO. \_\_\_\_\_

**SECTION 3:** This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of Darien that to the extent that the terms of this ordinance should be inconsistent with any non-preemptive state law, that this ordinance shall supersede state law in that regard within its jurisdiction.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage and approval, and shall subsequently be published in pamphlet form as provided by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this \_\_\_ day of \_\_\_\_\_, 2019.**

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.**

\_\_\_\_\_  
KATHLEEN MOESLE WEAVER, MAYOR

ATTEST:

\_\_\_\_\_  
JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

ORDINANCE NO. \_\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY