



City of Chicago



O2018-1055

Office of the City Clerk

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Meeting Date: 2/28/2018

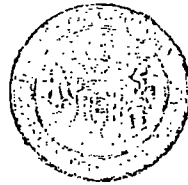
Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code Chapters 17-2, 17-3, 17-4, 17-5, 17-6, 17-9 and 17-17 restricting manganese-bearing materials operations and establishing reporting requirements

Committee(s) Assignment: Committee on Zoning, Landmarks and Building Standards

ZON.



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 28, 2018

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Public Health and the Commissioner of Planning and Development, I transmit herewith an ordinance amending various Municipal Code provisions regarding manganese-bearing material operations and reporting requirements.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

WHEREAS, The storage and handling of manganese-bearing materials for purposes of distribution or transportation negatively impacts residential areas near the industrial zones where such activities occur; and

WHEREAS, These negative impacts include accumulation of black dust on cars or property in such residential areas together with increased noise from manganese-bearing material operations and related road and rail traffic; and

WHEREAS, These negative impacts subject Chicagoans to severe inconvenience and unpleasantness in their outdoor spaces; and

WHEREAS, Manganese from manganese-bearing material can constitute a potential threat to human health when present in sufficient concentrations; and

WHEREAS, Manganese-bearing material operations not only significantly impact nearby residents' quality of life, but also inhibit economic development in their neighborhoods; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 17-2-0200 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-2-0200 Allowed uses.

(Omitted text is unaffected by this ordinance)

17-2-0207 Use Table and Standards.

(Omitted text is unaffected by this ordinance)

USE GROUP		Zoning Districts								Use standard	Parking standard
Use category		RS	R S	R S	RT	R T	R M	RM	RM		
	Specific Use Type	1	2	3	3.5	4	4.5	5-5.5	6-6.5		
P= permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed											

(Omitted text is unaffected by this ordinance)

<u>X. Manganese-bearing</u>	-	-	-	-	-	-	-	-	-	§ 17-9-	None
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Material Operation								0117-D	Req'd
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SECTION 2. Section 17-3-0200 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-3-0200 Allowed uses.

(Omitted text is unaffected by this ordinance)

17-3-0207 Use Table and Standards.

(Omitted text is unaffected by this ordinance)

USE GROUP	Zoning Districts						Use Standard	Parking Standard
Use Category	B1	B2	B3	C1	C2	C3		
Specific Use Type								
P= permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed								

(Omitted text is unaffected by this ordinance)

<u>BBB.</u> Manganese-bearing Material Operation	=	=	=	=	=	=	<u>§ 17-9-0117-D</u>	<u>None Req'd</u>
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SECTION 3. Section 17-4-0200 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-4-0200 Allowed uses.

(Omitted text is unaffected by this ordinance)

17-4-0207 Use Table and Standards.

(Omitted text is unaffected by this ordinance)

USE GROUP	Zoning Districts				Use Standard	Parking Standard
Use Category	DC	DX	DR	DS		
Specific Use Type						
P= permitted by-right						

S = special use approval req'd
 PD = planned development approval req'd
 - = Not allowed

(Omitted text is unaffected by this ordinance)

<u>BBB. Manganese-bearing Material Operation</u>	=	=	=	=	<u>§ 17-9-0117-D</u>	<u>None Req'd</u>
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SECTION 4. Section 17-5-0200 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-5-0200 Allowed uses.

(Omitted text is unaffected by this ordinance)

17-5-0207 Use Table and Standards.

(Omitted text is unaffected by this ordinance)

USE GROUP	District			Use Standard	Parking Standard
	Use Category	M1	M2		
	Specific Use Type				
P= permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed					

(Omitted text is unaffected by this ordinance)

<u>MM. Manganese-bearing Material Operation</u>	=	=	=	=	<u>§ 17-9-0117-D</u>	<u>None Req'd</u>
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SECTION 5. Section 17-6-0200 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-6-0200 POS, Parks and Open Space District.

(Omitted text is unaffected by this ordinance)

17-6-0203 Allowed Uses. Permanent uses and facilities are allowed in the POS district in accordance with the use table of this section.

(Omitted text is unaffected by this ordinance)

17-6-0203-E Use Table.

(Omitted text is unaffected by this ordinance)

USE GROUP		Park/Open Space Facility Type				Additional Standards
Use Category		POS-1 Regional or Community Parks	POS-2 Neighborhood, Mini- and Play- lot Parks	POS-3 Open Space/ Natural Areas	POS-4 Cemeteries	
	Specific Use Type					
P = permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed						

(Omitted text is unaffected by this ordinance)

<u>S. Manganese-bearing Material Operation</u>	=	=	=	=	<u>§ 17-9-0117-D</u>
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SECTION 6. Section 17-6-0400 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored as follows:

17-6-0400 PMD, Planned Manufacturing Districts.

(Omitted text is unaffected by this ordinance)

17-6-0403-F Use Table and Standards.

USE GROUP		PMD (Planned Manufacturing District)														Use Standard		
Use Category		No. 1	No. 2	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8	No. 9	No. 10	No. 11	No. 12	No. 13	No. 14	No. 15		
	Specific Use	A	B	A	B		A	B		A	B		A	B				

Type																				
P= permitted by-right																				
S = special use approval req'd																				
PD = planned development approval req'd																				
- = Not allowed																				

(Omitted text is unaffected by this ordinance)

OO.	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	§ 17-9-0117-D
Manganese-bearing Material Operation																					

SECTION 7. Section 17-9-0100 of the Chicago Zoning Ordinance is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

17-9-0100 Use standards.

(Omitted text is unaffected by this ordinance)

17-9-0117 Waste-related Uses, Recycling Facilities, Mining/Excavation Uses, and Coke & Coal Bulk Material Uses, and Manganese-bearing Material Operation uses.

(Omitted text is unaffected by this ordinance)

17-9-0117-D Manganese-bearing Material Operation uses.

(1) Neither the storing, loading, unloading, stockpiling, handling on-site, blending, mixing, crushing, screening, breaking, wet or dry cleaning, thermal drying, and chemically treating of manganese-bearing material for purposes of distribution or transportation, nor the undertaking of any improvements or development associated therewith (collectively, "manganese-bearing material operation uses"), shall be permitted in any zoning district. Nothing in this subsection 17-9-0117-D(1) shall be construed to prohibit the use or processing of manganese-bearing materials by a manufacturing establishment when: (i) such use or processing of manganese-bearing materials is for the purpose of manufacturing of finished or unfinished products at the site of the manufacturing establishment; and (ii) the manufacturing establishment has obtained applicable air permits, if any, required by City, State of Illinois or federal law.

(2) Notwithstanding subsection 17-9-0117-D(1), manganese-bearing material operation uses that have been in continuous operation in accordance with lawfully established zoning requirements for at least one year prior to the effective date of this subsection 17-9-0117-D shall be deemed nonconforming and may be continued. Suspension of any such operation before, on, or after the effective date of this subsection 17-9-0117-D in order to obtain any non-zoning governmental approvals (legislative, judicial, regulatory, or other) required to operate a manganese-bearing material operation use shall not affect the operation's status as a continuous use. In the event of such a suspension, subsections 17-15-0304-A1 and 17-15-0304-A3 of this Zoning Ordinance shall not apply so long as the operator of the suspended

manganese-bearing material operation use is actively engaged in obtaining the aforesaid approvals.

(3) Notwithstanding subsection 17-15-0302-B of this Zoning Ordinance, no nonconforming use may be changed to, or substituted with, any manganese-bearing material operation use.

(4) No expansion of any manganese-bearing material operation use shall be permitted. For purposes of this subsection 17-9-0117-D(4), "expansion" means any extension or increase in the boundaries of the land upon which any existing manganese-bearing material operation use is located, based on the lawful boundaries in existence as of the effective date of this subsection 17-9-0117-D.

(5) Owners and operators of manganese-bearing material operation uses allowed under this subsection 17-9-0117-D shall report and certify, under penalty of perjury, the following data, expressed in both tons and cubic yards, in quarterly reports, due within thirty days of the end of each quarter, submitted to the department of planning and development, pursuant to a form and format set by that department:

(a) the total monthly amount of manganese-bearing material received;

(b) the total monthly amount of manganese-bearing material leaving the facility by truck, barge, boat, railcar, or other means of conveyance;

(c) the maximum daily amount of manganese-bearing material present at the facility in each calendar month; and

(d) the monthly manganese-bearing material throughput, i.e., the amount of manganese-bearing material received at a facility in a given calendar month, plus the amount of manganese-bearing material leaving the facility in that same month, divided by 2.

The owners and operators shall include in each quarterly report the method used for determining the values of subsections 17-9-0117-D(5)(a), (b), and (c), and shall maintain for inspection all documents used in preparing the reports for a period of at least 3 years. Violators of this subsection 17-9-0117-D(5) shall be subject to a fine of not less than \$1,000 nor more than \$5,000. Each day that a violation continues shall constitute a separate and distinct offense. Utilizing these reports and other relevant data, the commissioner of planning and development is authorized to determine limitations on: (1) manganese-bearing material throughput, and (2) the maximum daily amount of manganese-bearing material present at the facility in each calendar month, that are necessary to abate the negative impact on the community resulting from the secondary effects of manganese-bearing material operation uses (including impaired enjoyment of real and personal property in neighborhoods located near such operations). The commissioner of planning and development is also authorized to issue one or more administrative orders setting throughput limitations and maximum daily amount limitations for all manganese-bearing material operation uses.

(6) All manganese-bearing material operation uses are subject to all applicable sections of the Municipal Code of Chicago, including, but not limited to, sections 11-4-760 and 11-4-770 of that Code, as amended; and to the Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Material Piles, as well as all other applicable rules promulgated

under any applicable sections of the Municipal Code of Chicago (collectively, "bulk material rules").

(7) Nothing in this subsection 17-9-0117-D shall preclude a finding by the City that manganese-bearing material operation uses are also waste-related uses and thus subject to the regulations applicable to such uses as well.

(8) Nothing in this subsection 17-9-0117-D shall prohibit or impair the construction or installation of any improvements, nor the undertaking of any operations or maintenance that is required or provided for by the bulk material rules, with the exception of compliance with subsection 17-9-0117-D(4), the prohibition on expansion of land boundaries.

(9) In the event of any conflict between this subsection 17-9-0117-D and any other provision of this Zoning Ordinance, the former shall govern.

(Omitted text is unaffected by this ordinance)

SECTION 8. Section 17-17-0100 of the Chicago Zoning Ordinance is hereby amended by inserting the language underscored, as follows:

17-17-0100 Use group and category descriptions.

(Omitted text is unaffected by this ordinance)

17-17-0105-H Manganese-bearing material and related terms.

1. Manganese-bearing material. Ferrous manganese, manganese silicate, manganese alloy, manganese ore, or any other material from which manganese is extracted. The term "manganese-bearing material" does not include any material which contains a trace amount of manganese, as determined by rules promulgated by the commissioner of planning and development.

2. Manganese. A hard, brittle, grayish-white, metallic element, whose symbol is Mn, atomic weight is 54.938 and atomic number is 25, and which is used chiefly as an alloying agent in steel.

3. Manganese-bearing material operation use. Any activity, including, but not limited to, the storing, loading, unloading, stockpiling, handling on-site, blending, mixing, crushing, screening, breaking, wet or dry cleaning, thermal drying, and chemically treating of manganese-bearing material for purposes of distribution or transportation, or any improvement or development associated therewith.

(Omitted text is unaffected by this ordinance)

SECTION 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any provision of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 10. This ordinance shall take effect ten days after its passage and publication.