

AMENDMENT OF CHAPTERS 17-2, 17-3, 17-4, 17-5, 17-6, 17-9 AND 17-17 OF MUNICIPAL CODE BY MODIFYING EXISTING AND ADDING NEW SECTIONS REGARDING REQUIREMENTS FOR STORAGE AND HANDLING OF MANGANESE-BEARING MATERIALS FOR PURPOSES OF DISTRIBUTION OR TRANSPORTATION.

(MA-248)

[SO2018-1055]

The Committee on Zoning, Landmarks and Building Standards submitted the following report:

CHICAGO, March 28, 2018.

To the President and Members of the City Council:

Presenting a report for your Committee on Zoning, Landmarks and Building Standards which held a meeting on March 27, 2018, the following items were passed by a majority of the members present:

Page 1 contains a Mayoral ordinance regarding building code requirements and related technical corrections for elevators and other conveyance devices.

Page 1 also contains a Mayoral ordinance regarding manganese-bearing materials.

Pages 1 through 12 contain various map amendments.

Page 13 contains business identification signs and two historical landmark designations.

I hereby move for passage of the substitute ordinance transmitted herewith.

Respectfully submitted,

(Signed) DANIEL S. SOLIS,
Chairman.

On motion of Alderman Solis, the said proposed substitute ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

Yeas -- Aldermen Moreno, Hopkins, Dowell, King, Hairston, Sawyer, Mitchell, Harris, Sadlowski Garza, Thompson, Cárdenas, Quinn, Burke, Lopez, Foulkes, D. Moore, Curtis, O'Shea, Cochran, Brookins, Muñoz, Zalewski, Scott, Solis, Burnett, Ervin, Taliaferro, Reboyras, Santiago, Waguespack, Mell, Austin, Ramirez-Rosa, Villegas, Mitts, Sposato, Laurino, O'Connor, Napolitano, Reilly, Smith, Tunney, Arena, Cappleman, Pawar, Osterman, J. Moore, Silverstein -- 48.

Nays -- None.

Alderman Sawyer moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

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 Material Operation</u>	=	=	=	=	=	=	=	=	=	<u>§ 17-9-0117-D</u>	<u>None Req'd</u>
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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. Manganese-bearing Material Operation</u>	=	=	=	=	=	=	<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
	M1	M2	M3		
Use Category					
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.

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. Manganese- bearing Material Operation	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	<u>§ 17-9-0117-D</u>
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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.

17-9-0117-A Waste-Related Uses, Recycling Facilities, and Mining/Excavation Uses, and Manganese-bearing Material Operation uses. Buildings, storage areas and work areas on the site of all waste-related uses, Class III, Class IVB, and Class V Recycling Facilities, and mining/excavation, and manganese-bearing material operation uses must be located at least 150 feet from all R zoning district boundaries, provided that landfills, hazardous waste disposal/storage, and windrow composting facilities must be located at least 660 feet from R zoning district boundaries.

(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, chemically treating or any other processing of manganese-bearing material, nor the undertaking of any improvements or development associated therewith (collectively, "manganese-bearing material operation uses"), shall be permitted in any zoning district. This section shall not apply to any licensed manufacturing establishment if the manufacturing establishment: (i) uses or processes manganese-bearing materials for the purpose of manufacturing of finished or unfinished products at the site of the manufacturing establishment; (ii) has obtained applicable air permits, if any, required by City, State of Illinois or federal; and (iii) does not store non-packaged manganese-bearing material outdoors and is not subject to the Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Material Piles.

(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 *non-packaged manganese-bearing material* received;

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

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

(d) the monthly *non-packaged 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 *non-packaged 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, in consultation with the commissioner of health, is authorized to determine limitations on: (1) *non-packaged manganese-bearing material* throughput, and (2) the maximum daily amount of *non-packaged 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 health shall, on at least a quarterly basis, compare the reports with any complaints, inspection reports, monitoring data, and other relevant information, and provide recommendations to the commissioner of planning and development. 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 or

emitted or otherwise becomes airborne. The term "manganese-bearing material" does not include any material which contains an amount of manganese that is less than 1 percent by weight.

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, chemically treating or any other processing of manganese-bearing material, or any improvement or development associated therewith.

4. Non-packaged. Not fully enclosed to prevent the possibility of any dust escaping from the package the entire time the material is in the possession of the owner or operator.

(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.