

SUBSTITUTE
ORDINANCE

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

SECTION 1. Chapter 8-16 of the Municipal Code of Chicago is hereby amended by inserting a new Section 8-16-021, as follows:

8-16-021 Declaration of Curfew for Mass Gatherings.

(a) *Definitions.* As used in this section:

“Deputy Mayor” means the Deputy Mayor of Community Safety within the Mayor’s Office or that person’s designee.

“Mass gathering” means 20 or more people gathered in a public place in such a manner as to present or cause, or in a manner that is likely to result in, substantial harm to the safety of the community or others, or substantial damage to property, or substantial injuries to a person, including participants, or in a manner that otherwise presents or causes, or in a manner that is likely to present or cause, substantial harm to public health, safety, or welfare.

“Superintendent” means the Superintendent of the Chicago Police Department, or their designee.

The following terms have the respective meanings ascribed to them in Section 8-16-020: “guardian”, “minor”, “parent”, “public place”, and “remain”.

(b) *Decision and Declaration of curfew for mass gathering by the Superintendent.* Whenever the Superintendent, after consulting the Deputy Mayor, has determined that there is probable cause to believe that a mass gathering will occur, the Superintendent may declare a curfew for the applicable public places anticipated to be affected by such mass gathering. Such declaration must clearly identify the time the curfew takes effect, the duration of the curfew and the public places subject to the curfew. Unless the Superintendent, after consulting the Deputy Mayor, determines there is probable cause to warrant an extension of a curfew declared under this section, any such curfew shall expire upon the earlier of three hours after such curfew is declared or the beginning of the generally applicable curfew hours under Section 8-16-020. In the event of a conflict with any other applicable curfew or dispersal order, the most restrictive time limit shall apply. For purposes of this section, evidence of probable cause shall be objective facts, information, and data supporting a curfew declaration, including, but not limited to, social media posts, written materials such as flyers, or a history of mass gatherings promoted for a particular place, by a particular promoter, or on a recurring basis.

Upon declaring a curfew under this subsection, the Superintendent shall notify: (i) the public of the curfew imposed by and the public places subject to such declaration, including if feasible causing such information to be posted around the public places subject to the declaration, in accordance with procedures promulgated by the Superintendent; (ii) the Office of Emergency Management and Communications; and (iii) the applicable incident commander to ensure that the applicable district or beat has appropriate staffing levels and resources in light of the anticipated size and scope of the planned mass gathering. Upon receipt of such notification, the Office of Emergency Management and Communication shall issue notification of the curfew declaration to any affected Sister Agencies and Aldermanic offices.

At least 30 minutes before a curfew declared under this subsection takes effect, the applicable incident commander, or their designee holding the rank of captain or above, shall issue a verbal notice: (i) informing those present at the public places subject to the curfew declaration that a curfew has been declared, the time the curfew takes effect, and the public places subject to the curfew declaration; (ii) ordering all minors to disperse and remove themselves from the public places subject to the curfew declaration before the curfew takes effect; and (iii) informing minors that they may be subject to enforcement if they remain in such public places after the curfew takes effect.

(c) *Offense.*

(1) Any minor who knowingly remains in any public place in violation of a curfew declared under this section commits an offense.

(2) A parent or guardian of a minor commits an offense if the parent or guardian by insufficient control knowingly allows the minor to remain in any designated public place during curfew hours declared under this section.

(d) *Rules.* The Superintendent shall promulgate written directives to prevent the enforcement of this section against persons who are engaged in exercising First Amendment rights protected by the United States Constitution or the State of Illinois Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(e) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent violator's age and reason for being in the public place. The officer shall not issue a citation or make an arrest or take a minor into custody under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (f) is present. Nothing in this section shall be construed to prohibit or limit the ability of any member of the Police Department to issue a dispersal order pursuant to this Code, any directive of the Superintendent, or other applicable law, including any dispersal order issued concurrently with or after any declaration of curfew under this section.

(f) *Defenses.* It is a defense to prosecution under this section that the minor was:

- (A) Accompanied by the minor's parent or guardian;
- (B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (C) In a motor vehicle involved in interstate travel;
- (D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (E) Involved in an emergency;
- (F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution or the State of Illinois Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;

(I) Married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended; or

(J) Participating in, traveling to, or returning home immediately after, a ticketed or sponsored event and has documentary evidence of their attendance at such event, including, but not limited to, a ticket or ticket stub or wristband with the event name preprinted on it.

(g) *Penalties.* Any person who violates this section is subject to a fine not to exceed \$250 or community service pursuant to Section 1-4-120 of this Code, or both. For purposes of this subsection only, community service may include attending supportive social services. Any person who knowingly permits, causes, aids, abets, incites, assists, or encourages a minor to remain in any public place in violation of a curfew declared under this section shall be subject to prosecution under Section 8-16-125.

(h) *Quarterly Reporting; Appearance before committee.* On a quarterly basis, the Superintendent shall provide to the City Council Committee on Public Safety, or its successor committee, a report detailing all curfews declared under this section for the preceding quarter. On or before December 31 of each year, the Superintendent and Deputy Mayor shall appear at a hearing of the City Council Committee on Public Safety, or its successor committee, to report on, and answer questions concerning, the declaration and enforcement of curfews under this section.

SECTION 2. Section 8-16-022 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

8-16-022 Custody procedure.

Any police officer who finds a minor in violation of Section 8-16-020 or Section 8-16-021 is authorized to take such minor into custody until such time as the minor's parent, legal guardian, or other adult having legal care or custody of the minor is located and notified of the violation, and takes custody of the minor from the police. If no such person can be located within a reasonable period of time, the minor shall be referred to the appropriate juvenile authorities.

SECTION 3. This ordinance takes effect 10 days after passage and publication.