



City of Chicago



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Office of the City Clerk

Document Tracking Sheet

Meeting Date: 9/14/2021

Sponsor(s): Vasquez, Jr. (40)

Type: Ordinance

Title: Amendment of Municipal Code Section 2-112-110 regarding powers and duties of Commissioner of Public Health concerning mental and behavioral health services

Committee(s) Assignment: Committee on Budget and Government Operations

MANAGEMENT ORDINANCE

WHEREAS, The City of Chicago is a home rule unit of government as defined in Article VII, Section 6(a) of the Illinois Constitution; and

WHEREAS, As a home rule unit of government, the City of Chicago may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The management, structure, powers, and functions of its departments and agencies is a matter pertaining to the government and affairs of the City of Chicago; now, therefore,

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

This ordinance is organized into the following articles:

- I. Mental and Behavioral Health Authorization
- II. Severability and Repealer
- III. Effective Dates

ARTICLE I. MENTAL AND BEHAVIORAL HEALTH AUTHORIZATION

SECTION 1. Section 2-112-110 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-112-110 Commissioner – Additional powers and duties.

The Commissioner of Public Health shall have the following powers and duties:

(a) Public health related powers and duties:

(1) To enforce all the laws of the state and provisions of this Code in relation to matters pertaining to the public health and sanitary conditions of the City, including Section 8-16-024;

(2) To enforce all regulations of any federal, state, or local authority with power to make regulations concerning the public health;

(3) To cause all nuisances affecting the health of the public to be abated with all reasonable promptness;

(4) To determine when a disease is communicable or epidemic, and establish quarantine regulations whenever it is deemed necessary;

(5) To enforce Section 4-4-332, Article VIII of Chapter 7-28 and all other code provisions applicable to bed bugs;

(6) To enter into contracts with hospitals and healthcare facilities within the City to allow medical directors employed by the Department to provide clinical services and/or care at such hospitals and facilities for the purpose of enabling such employees to maintain clinical skills and/or certifications related to their position at the Department. Such contracts shall be subject to approval of the corporation counsel as to form and legality;

(7) To request, collect, receive, and maintain confidential information, records, specimens, and data, including protected health information consistent with 45 C.F.R. § 164.512(b)(1)(i), for the purpose of preventing or controlling disease, injury, or disability. The confidential information, records, specimens, and data may support activities including, but not limited to, the reporting of disease, injury, or vital events such as birth or death; the conducting of public health surveillance, public health investigations, and public health interventions; the performance of epidemiological studies; and the application of data science methods or other analytic models that protect and promote public health. Any person required to provide such information, records, specimens, and data to any local, state, or federal government agency shall, at the request of the Commissioner, or as set out in rules promulgated in furtherance of this subsection, also provide it to the Department, except where prohibited by law. The Commissioner is authorized to contract with a person to act as a public health authority, as defined at 45 C.F.R. § 164.501, which person may collect, receive, and maintain confidential information, records, specimens, and data, including protected health information consistent with 45 C.F.R. § 164.512(b)(1)(i), for the purpose of preventing or controlling disease, injury, or disability.

(8) To issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, records, documents, data and other information relevant to public health investigations that the Commissioner conducts (i) pertaining to a serious public health threat; or (ii) to locate persons who may have been exposed to an agent which can seriously affect their health.

Except as otherwise provided in this subsection, a subpoena shall be served in the same manner as subpoenas issued under the Rules of the Illinois Supreme Court to compel appearance of a deponent, and subject to the same witness and mileage fees fixed by law for such subpoenas.

A subpoena issued under this subsection shall identify the person to whom it is directed and the documents or other items sought thereby, if any, and the date, time and place for the appearance of the witness and production of the documents or other items described in the subpoena. Except for investigations related to a public health emergency, as determined by the Commissioner, the date for examination or production shall not be less than seven days after service of the subpoena. The Commissioner shall determine the date for examination or production for investigations related to a public health emergency on a case-by-case basis, considering the need to preserve the public health and safety. For purposes of this subsection, the term "public health emergency" includes a threat to the public health or safety that is

expected to occur within a reasonably short time, or that is present now, although the impact of the threat may not be felt until later.

No later than the time for appearance or production required by the subpoena, the person to whom the subpoena is directed may object to the subpoena, in whole or in part. The objection shall be in writing, delivered to the Commissioner, and shall specify the grounds for the objection. Except in cases of a public health emergency, for seven days after receipt of a timely objection to a subpoena, no action shall be taken to enforce the subpoena or to initiate prosecution of the person to whom the subpoena is directed. During this seven-day period, the Commissioner shall consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person to whom the subpoena is directed. The seven-day period may be extended by the Commissioner in order to allow completion of any negotiations. The extension shall be in writing addressed to the person to whom the subpoena is directed, and shall specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the subpoena and the time, place and manner of response thereto. The filing of an objection to a subpoena, and negotiations pursuant to an objection, shall not constitute refusal to comply with the subpoena, or interference with or obstruction of an investigation.

No person shall willfully refuse to comply with a subpoena issued by the Commissioner, or otherwise knowingly interfere with or obstruct an investigation conducted by the Commissioner. Any person who willfully violates this subsection shall be subject to a fine of not less than \$300.00 and not more than \$500.00 for each such offense, or imprisonment for a period of not less than 30 days and not more than six months, or both a fine and imprisonment. Each day that a violation continues shall constitute a separate and distinct offense. Actions seeking the imposition of a fine only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure. Actions seeking incarceration, or incarceration and a fine, shall be filed and prosecuted as misdemeanor actions under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code. Only the Corporation Counsel is authorized to initiate actions to enforce subpoenas issued pursuant to this subsection.

Nothing in this section shall affect the right of the recipient of a subpoena issued pursuant to this subsection to seek judicial review in accordance with applicable law.

Nothing provided in this subsection shall be construed to prohibit the Commissioner from taking any action necessary to preserve the public health as provided under the Commissioner's rulemaking authority pursuant to Section 2-112-070.

(9) For the purpose of carrying out the requirements of this Code, relating to the public health, the Commissioner or anyone authorized to act for the Commissioner shall be permitted at all times to enter into any structure in order to make a thorough examination to determine the presence or absence of health hazards.

(b) Environmental protection powers and duties:

(1) To supervise the execution of and implement all laws, ordinances, and rules pertaining to environmental protection and control as provided in Chapter 11-4 of the Municipal Code of Chicago;

(2) To institute necessary proceedings to prosecute violations of Chapter 11-4, and all other provisions of this Code which the Commissioner is expressly authorized to enforce, and otherwise to compel the prevention and abatement of the issuance of smoke or gases, solids or liquids or other matter causing air or water pollution, and nuisances arising therefrom;

(3) To examine and approve the plans of fuel-burning, combustion or process equipment, devices, or areas, furnaces, and smoke prevention, air pollution, water pollution devices installed, constructed, reconstructed, repaired or added to in any building, location or on any premises within the City of Chicago as herein provided to assure that they are in accordance with the requirements of Chapter 11-4;

(4) To make inspections of newly installed, constructed, reconstructed, repaired or altered fuel-burning, combustion or process equipment, devices, or areas, furnaces, and smoke prevention, air pollution, water pollution control devices, storage tanks and waste handling facilities, and to make annual or periodic inspections to determine whether compliance is being had with the provisions of Chapter 11-4;

(5) To investigate complaints of violations of Chapter 11-4 and to make inspections and observations of environmental conditions;

(6) To issue rules necessary or proper for the implementation of environmental ordinances and to accomplish the purposes of Chapter 11-4 pursuant to Section 2-112-070, and to publish a code of recommended practices under which Chapter 11-4 is to be administered, providing with clarity and in detail the necessary information by which the public is to be guided and to establish standards of quality;

(7) To publish adopted rules or standards and the code of recommended practices in a convenient form;

(8) To prepare and maintain a record of all orders issued by the Department;

(9) To issue all permits, certificates, notices or other documents required under the provisions of Chapter 11-4;

(10) To issue an emergency or a non-emergency cessation order or an emergency or a non-emergency abatement order in accordance with the provisions of Section 11-4-025 of this Code;

(11) To enforce the provisions of Section 15-28-755 of this Code;

(12) To encourage and conduct studies, investigations and research, including joint cooperative investigation and research with public and private agencies and organizations, relating to the environmental protection authorities conferred on the Commissioner pursuant to subsection (b) of this section, as the Commissioner may deem advisable and necessary;

(13) To advise, consult and cooperate with other agencies of the state and federal governments, and other governmental agencies to advance environmental protection in furtherance of the purposes of Chapter 11-4 of this Code;

(14) To enter into grant agreements, cooperation agreements and other agreements or contracts with governmental entities, private business and civic and community groups to implement the environmental protection powers and duties conferred on the Commissioner pursuant to subsection (b) of this section, and to implement pharmaceutical and other waste disposal programs, as the Commissioner may deem advisable and necessary, and to enter into and execute all such other instruments and to perform any and all acts, including the allocation and expenditure of funds subject to appropriation therefor, as shall be necessary or advisable in connection with the implementation of such agreements, including any renewals thereto;

(15) Subject to the approval of the corporation counsel, to negotiate and execute on behalf of the City a lease, right of entry or other agreement authorizing the City to use or occupy, on a temporary basis, land owned or controlled by another for purposes of conducting an inspection, investigation or other activities authorized in subsection (b) of this section;

(16) To participate or otherwise engage in the City's emergency preparedness and emergency response activities.

(c) Mental health related powers and duties:

(1) To oversee, operate, and open, with any funds appropriated by the corporate authority for such purposes, mental health clinics or other places of mental and behavioral health services for the residents of the City;

(2) To establish and operate, in conjunction with the Department of Emergency Management and Communications, the Office of Public Safety, and any other necessary City departments or authorities, first responder services for mental, emotional, and behavioral crises and other emergency situations;

(3) To enter into contract agreements and issue grant funding, as appropriated by the corporate authority and subject to approval of the corporation counsel as to form and legality, for purposes of

(i) mental and behavioral health services provision;

(ii) violence prevention and treatment of violence as a public health issue;

(iii) research and treatment of harms caused by economic, environmental, social, and structural violence and inequity;

(4) To advise, consult and cooperate with other agencies of the state and federal governments, and other governmental agencies to advance mental and behavioral health care in the City of Chicago

~~(e)~~(d) To do any and all other acts which may be necessary for the implementation of other powers conferred on the Commissioner under this Code.

ARTICLE II. SEVERABILITY AND REPEALER

SECTION 1. 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 2. All ordinances, resolutions, motions, or orders inconsistent with this ordinance are hereby repealed to the extent of such conflict.

ARTICLE III. EFFECTIVE DATES

SECTION 1. All parts of this ordinance shall be effective on January 1, 2022.

Committee on Budget and Government Operations

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

Esteemed Colleagues, Mayor Lightfoot, and Clerk Valencia,

Each of us feels the heavy responsibility of our municipal budget process, most especially in this year of pandemic, partial recovery, and ongoing struggle and uncertainty. I know how seriously the Administration and City Council take this annual task, and I submit the following ordinance language to the Committee on Budget and Government Operations with utmost respect to our shared goals and responsibility.

I firmly believe that legislation is a collaborative endeavor, and that no one individual has all the right answers or ideas. In that spirit, I have prepared and submitted preliminary versions of the three core pieces of legislation that make up our municipal budget: the Appropriations Ordinance, the Revenue Ordinance, and the Management Ordinance. I do so now, well over 60 days in advance of the required passage date for our budget, to ensure that the City Council is fully prepared and has all legislative and parliamentary tools available to pass the best, most consensus-based, budget possible in November.

My intent is not to present these measures as the sole solutions our City needs, but to establish a cadence and procedure for the City Council to more fully engage in the process, as we have been elected to do by our constituents. I expect and look forward to a robust period of debate and amendment before a budget is passed, and most especially to the pending submission of the Mayor's executive budget recommendations. Please consider this a starting point, and a tool for all members of City Council to use.

The submitted Appropriations Ordinance was drafted using a budget spreadsheet toolkit that I am happy to share with any interested Alders, and which will be significantly improved by the addition of new budget information from the Office of Budget and Management once the executive recommendations are made available. The submitted Revenue and Management Ordinances are preliminary, and I earnestly invite amendment and addition from my fellow Alders. All of us have ideas worth consideration, debate, and -- if supported by a majority of Alders -- passage into law.

We work best when we work together. I hope that by presenting one Alder's vision of our City's budget, I can help encourage my fellow Alders to do likewise, and to put forward serious, robust proposals for this year's budget recommendations. My door is always open, and I am willing and eager to engage with my colleagues on this most serious of our duties.

Yours in Service,



Alder Andre Vasquez, 40th Ward