

IN THE CITY OF GULFPORT
FIRST JUDICIAL DISTRICT OF HARRISON COUNTY
STATE OF MISSISSIPPI

COVID-19 EXECUTIVE ORDER NO. 2

**EMERGENCY MAYORAL PROCLAMATION OF
EXECUTIVE ORDER REGARDING ADDITIONAL EFFORTS
TO FURTHER COMBAT THE SPREAD OF COVID-19
IN THE CITY OF GULFPORT, MISSISSIPPI, INCLUDING THE
ESTABLISHMENT OF A TEMPORARY MANDATORY CURFEW
AND ISSUANCE OF A “SAFER-AT-HOME” ORDER**

WHEREAS, on March 14, 2020, as Mayor of the City of Gulfport, Mississippi and pursuant to Miss. Code Ann. § 45-17-3, et seq. and Miss. Code Ann. § 33-15-17, et seq., I issued a “Proclamation by the Mayor of the City of Gulfport Declaring a Civil and/or Local Emergency to Exist as a Result of a Threatened or Existing Public Health Emergency (COVID-19)”; and

WHEREAS, within the span of a week and by March 19, 2020, the Mississippi Department of Health (“MDOH”) reported that there were in excess of 70 confirmed cases of persons infected with COVID-19 in the State of Mississippi, and which number is now (as of March 30, 2020) presently in excess of 845 with 16 deaths, 44 of which are reported cases in Harrison County, Mississippi, where the City of Gulfport is located; and

WHEREAS, COVID-19 is a new strain of coronavirus that previously had not been identified in humans, and this disease can result in severe illness or death, is highly contagious, and can be easily transmitted from person to person and by attaching to surfaces for prolonged periods of time; and

WHEREAS, heretofore Federal, State, and Local Authorities have continually impressed upon the public the importance of heeding the guidance of the Centers for Disease Control and Prevention (“CDC”), state departments of health, and the United States President concerning steps necessary to stop the proliferation of this outbreak, one of the most significant of which is the need to create “social distance” from others in all places, including in the public; and

WHEREAS, the scientific evidence shows that it is essential to slow virus transmission as much as possible to safeguard lives and to protect the ability of public and private health care providers to handle the influx of new patients and that one proven way to slow the transmission of the virus is to limit interactions among people to the greatest extent possible; and

WHEREAS, as a means of attempting to combat the prolific spread of this disease in the City of Gulfport, I issued an “Emergency Mayoral Proclamation of Executive Order” on March 20, 2020, which expanded on my earlier “Proclamation Declaring a Civil and/or Local Emergency” by temporarily closing entrances to the City’s buildings and facilities, as well as

prohibiting gatherings of more than ten (10) people and which also temporally closed various establishments; and

WHEREAS, the outbreak of COVID-19 is continuing to grow and is now infiltrating more areas in close proximity to the City of Gulfport; and

WHEREAS, as an example, the State of Louisiana presently has over 4,000 reported cases of the COVID-19 virus and 185 related deaths, and the rate of growth of the virus in Louisiana has been noted by some to be the fastest in the world so far and rivaling the rate in Italy, which has suffered over 11,000 deaths to the coronavirus to date; that the City of New Orleans, which is located within an hour's drive of the City of Gulfport, is reported as having more than 1,400 of Louisiana's 4,000 plus confirmed cases of the COVID-19 virus to date, which number largely grew in the span of the past two (2) or so weeks; and that in response to the significant rise in reported coronavirus cases in the City of New Orleans, the Mayor there recently issued a "stay at home mandate" to citizens, and the Governor of the State of Louisiana on March 22, 2020, issued an Executive Order requiring residents of Louisiana to restrict travel and to stay home; and

WHEREAS, the nationwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the country and region, including the Mississippi Gulf Coast, continue to significantly threaten the health, safety, and security of the citizens of the City of Gulfport; and

WHEREAS, since issuance of the May 20, 2020, "Emergency Mayoral Proclamation of Executive Order," reported cases of the coronavirus in Harrison County, Mississippi have increased and, according to the MDOH, reported cases of the disease in the State of Mississippi have significantly risen from a little more than 80 on March 19, 2020, to more than 200 as of March 22, 2020, and now to over 845 on March 29, 2020; and

WHEREAS, in continued recognition of the need to restrict the ability of this virus to spread, the Governors from several nearby States, including now Florida and Texas, have issued Executive Orders which require persons traveling from certain areas to self-quarantine for a minimum of fourteen (14) days or the length of their stay, whichever is shorter, as additional measures to combat this pandemic; and there are a number of cities and States that have now issued orders that have generally been referred to as "stay-at-home" or "shelter-in-place," the common theme of which is to require people to remain home except for those affiliated with the provision or receipt of "essential services"; and

WHEREAS, the extraordinary threat posed by COVID-19 has resulted in critical shortages of health care equipment, personal protective equipment, and possible shortages of hospital beds, throughout the region, and without additional means and measures to slow the spread of this disease in our region, health care facilities in our community are at a significant risk of being overwhelmed and which may lead to some who contract the virus requiring in-hospital treatment but not being able to receive the same; and

WHEREAS, consistent with guidance from the CDC and the MDOH, as well as after consultation with MDOH officials and local physicians, including one specializing in infectious diseases, it is clear that further courses of action and measures are necessary to protect and

safeguard the health, safety, and welfare of those residing in the City of Gulfport, to mitigate the impact of this disease, and to combat and disrupt the spread of the virus; and

WHEREAS, unbelievably in the midst of this increasing pandemic, there have numerous businesses, establishments, and individuals in the City of Gulfport who have selfishly refused to comply with the guidelines of the CDC and the President of the United States as well as have violated the Proclamation of Executive Order that I issued on March 20, 2020; and

WHEREAS, in addition, there are certain non-essential businesses whose very nature require contact of less than six (6) feet, including, but not limited to, personal care and grooming businesses, tattoo parlors, spas, exercise studios, massage parlors, fitness centers, nail salons, barber shops, cross training gyms, fitness facilities, beauty parlors, and gyms, and it is my determination that any guidance regarding social distancing while still operating such businesses is impractical, if not impossible, and, if such businesses are permitted to continue, these would contribute to the spread of this disease and expose our citizens to this emergent threat to public health and safety; and

WHEREAS, the Mayor of Gulfport is statutorily empowered through Miss. Code Ann. § 45-17-5 to order and issue a general curfew applicable to the City as deemed advisable and applicable during hours of the day or night as found necessary in the interest of the public safety and welfare and is further empowered through Miss. Code Ann. § 45-17-7 to issue such orders as are necessary for the protection of life and property; and, further, the Mayor is statutorily authorized pursuant to Miss. Code Ann. § 33-15-17 to, among other things, control and restrict egress, ingress and movement within and about the City to the degree necessary to facilitate the protection of life and property; and

WHEREAS, in a continuing effort to encourage civic responsibility, to prevent and combat the spread of this virus, and in an effort to curtail the growth of cases, authorities across the country have taken and are continuing to take and pursue extraordinary measures to limit and preclude close personal contact in communities through the issuance of orders and enactment of legislation; and such extraordinary measures related to attempting to thwart the spread of this disease continue to be necessary and needed in promotion and preservation of the public health, safety, welfare, and good order to protect public peace and save and preserve lives; and

WHEREAS, in addition to the temporary closure of certain establishments ordered because of this emergency in the “Emergency Proclamation of Executive Order” issued on March 20, 2020, certain additional businesses and establishments need to be temporarily closed to the public during this emergency; movement of citizens and visitors not associated with “Essential Businesses,” as defined and understood herein, is in need of temporary restriction by way of imposition of a curfew and restriction of movement; and it is further imperative that all residents in our City, when they are not engaged in services or operations associated with “Essential Businesses,” should limit movements outside of their homes beyond essential needs.

THEREFORE, pursuant to the authority vested in me by Mississippi Law, including, but not limited to, Miss. Code Ann. § 45-17-1, et seq. and Miss. Code Ann. § 33-15-17, et seq., as amended, and in the public interest of the City of Gulfport, and to safeguard and protect the health, safety, and welfare of the public and for the protection of life and property, I do hereby

issue this additional Emergency Mayoral Proclamation of Executive Order (also referred to as “Proclamation”) as set out herein.

IT IS HEREBY ORDERED, that all provisions of the “Emergency Mayoral Proclamation of Executive Order” issued by me on March 20, 2020, not expressly in conflict with the provisions of this additional Proclamation herein shall remain in full force and effect. It is further,

ORDERED that all businesses and establishments that do not explicitly fall within the scope of “Essential Businesses,” as referred to herein, and whose very nature requires contact of less than six (6) feet, including, but not limited to, personal care and grooming businesses, tattoo parlors, spas, exercise studios, massage parlors, fitness centers and facilities, health clubs, nail salons, barber shops, cross training gyms, beauty parlors and salons, gyms, and other similar businesses located in the City of Gulfport, to the extent they were not previously within the scope of the March 20, 2020, “Emergency Mayoral Proclamation of Executive Order,” shall close and suspend operations, effective Tuesday, March 31, 2020, at 11:59 p.m. It is further,

ORDERED that all restaurants, bars, and dining establishments located in the City of Gulfport shall continue to remain closed, with the only exception being that these businesses may provide take-out, curbside pick-up, delivery, or drive-through services as allowed by law. To the extent there is any ambiguity, these businesses shall not provide any in-house, on-premise, or dine-in services or available sitting areas for the public, regardless of whether inside or outside of a structure or building. It is further,

ORDERED that the maximum room occupancy for all transient public lodging establishments within the City of Gulfport, which is understood and defined herein to mean and include hotels, motels, short-term rentals, and similar type businesses and operations that provide temporary lodging by way of temporary rental of rooms, mobile or immobile units, structures, enclosed spaces, or any other lodging areas or improvements shall temporarily not exceed the bed capacity of the room or facility. For example, if a room that is rented has two (2) beds, its maximum room occupancy shall temporarily be limited to two (2) persons – i.e., one (1) person per bed. It is further,

ORDERED that businesses and other similar type establishments having a large customer/client base, such as retail stores, plasma centers, home improvement stores, and comparable and like businesses still in operation must limit customer access to their places of business to no more than five percent (5 %) of their permitted occupancy limit at any one time (with this calculation not including employees in the count). Furthermore, such businesses must offer and/or provide customers hand sanitizer or similar type disinfectant for personal, human use, must disinfect and sanitize common areas on a regular basis, and must actively pursue all available precautions to ensure adherence to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President of the United States with respect to prevention and protection against the spread of this virus, whichever is strictest, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds). It is further,

ORDERED that all public parks and public spaces in the City may remain open on a limited basis only for those persons properly adhering to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President of the United States with respect to prevention and protection against the spread of this virus, whichever is strictest, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds). It is further,

ORDERED that, in an effort to, among other things, conserve medical supplies and preserve essential resources for use by health care professionals and others responding to this emergency, including personal protective equipment (“PPE”), that may be used by physicians and other health care provider practices and offices, all hospitals, ambulatory surgical centers, surgery centers, and other health care practitioners’ offices and clinics in the City of Gulfport shall not provide any medically unnecessary, non-urgent, or non-emergency procedure or surgery which, if delayed, does not or would not place a patient’s immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious or life-threatening medical condition. It is further,

ORDERED that all persons within the boundaries of the City of Gulfport should take personal responsibility to prevent the spread of COVID-19 by adhering to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President of the United States, whichever shall be the strictest, regarding the prevention and protection against the spread of this virus, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds). It is further,

ORDERED that all City of Gulfport residents and visitors to Gulfport, especially those who the CDC has indicated are at an increased risk of infection with the COVID-19 virus, including, but not limited to, those adults over sixty (60) years of age and individuals with underlying medical conditions, shall adhere to this “*Safer-at-Home*” Order and take personal responsibility to prevent the spread of the COVID-19 virus by taking all available, reasonable measures, including, but not limited to, the following:

1. For businesses and employers who do not provide services critical and essential to an “Essential Business” and whose operations are not suspended or temporarily closed by Mayoral Proclamation of Executive Order, resolution or ordinance by the City’s Governing Authority, order, declaration, or edict issued by the Governor of the State of Mississippi or President of the United States, or any state or federal law, these establishments shall take all steps reasonably necessary for employees to work remotely from home and these businesses shall have the least number of staff on premises necessary to continue basic operations, while still also adhering to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President,

whichever shall be the strictest, regarding the prevention and protection against the spread of this virus, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds).

2. For businesses and employers who do provide services critical and essential to an “Essential Business” and whose operations are not suspended or temporarily closed by Mayoral Proclamation of Executive Order, resolution or ordinance by the City’s Governing Authority, order, declaration, or edict issued by the Governor of the State of Mississippi or President of the United States, or any state or federal law, these establishments shall take all steps reasonably necessary to adhere to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President, whichever shall be the strictest, regarding the prevention and protection against the spread of this virus, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds).
3. For any and all persons employed by, associated with, or involved in the provision of services of an “Essential Business,” such persons shall:
 - (a) restrict movement around the City to only that necessary for travel to and from authorized work environments, accessing services associated with “Essential Businesses” (e.g., obtaining food and beverages and goods or services associated with “Essential Businesses”), and performing such services; attending to medically necessary appointments or seeking necessitous medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services; caring for family or household members or pets, complying with a valid order of a court of competent jurisdiction; and engaging in personal recreation (e.g., walking, hiking, running/jogging, fishing, bicycling, walking pets, etc.); and
 - (b) comply with the most recent issued regulations or guidelines issued by the CDC, the MDOH, or the President of the United States, whichever shall be the strictest, regarding the prevention and protection against the spread of this virus, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using

hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds).

4. For any and all persons not employed by, associated with or involved in the provision of services of an “Essential Business,” such persons shall:
 - (a) restrict movement around the City to only that necessary for travel to and from authorized work environments, accessing services associated with “Essential Businesses” (e.g., obtaining food and beverages and goods or services associated with “Essential Businesses”), attending to medically necessary appointments or seeking necessitous medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services, caring for family and household members or pets, complying with a valid order of a court of competent jurisdiction; and engaging in personal recreation (e.g., walking, hiking, running/jogging, fishing, bicycling, walking pets, etc.); and
 - (b) comply with the most recent issued regulations or guidelines issued by the CDC, the MDOH, or the President of the United States, whichever shall be the strictest, regarding the prevention and protection against the spread of this virus, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds).

As used herein, “Essential Business” (also referred to as “Essential Worker Functions”) shall refer to and mean those activities and establishments necessary to maintain continuity of operations and services of critical infrastructure sectors with respect to the COVID-19 pandemic, as delineated or described in guidance provided by the United States Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (“CISA”) and set out at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19> . As set forth by the United States Department of Homeland Security in the link above, the Federal Government has identified various critical infrastructure sectors whose assets, systems and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction amidst the current emergency would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. Individuals working in these critical infrastructure sectors may continue their work because of the importance of these sectors to the health and well-being of individuals residing or working in the City of Gulfport.

As a non-exhaustive means of illustration, the following are included within the scope and meaning of an “Essential Business” within this Proclamation: hospitals, medical clinics and facilities and healthcare, mental and behavioral health, and laboratory facilities and services and workers and caregivers thereof; law enforcement and public transportation; home-based care for seniors, adults, or children; mental health and social services and workers thereof; pharmacies

and pharmacy employees; grocery stores and convenience stores that sell unprepared food and workers thereof; pharmacies, and other retail sales of food and beverage products; restaurant carryout, curbside, and drive-thru operations and food delivery services and employees; farm workers; utilities and industries, including those associated with the provision of electricity, gas, water, sanitary sewer transport, collection, or treatment, or solid waste collection, transport, or disposal services; “critical manufacturing employees,” as referred to in “CISA”; postal and delivery services and employees thereof; petroleum, natural and propane gas companies and workers thereof; gas stations and their employees; transportation and logistics workers; communications and information technology employees; City, County, State, and Federal Governments and employees thereof; building supply and appliance sales and repairs businesses; vehicle support businesses; and financial services and banking institutions and employees thereof. References to employees in this paragraph mean those individuals who are in the course and scope of their duties associated with the “Essential Business” that serves as their employer at the time. As referred to herein, the services provided by “Essential Businesses” shall mean and refer to “Essential Services.”

Individuals experiencing homelessness, who may include individuals in shelters, shall not be subject to this provision but shall be strongly encouraged to adhere to the regulations or guidelines issued by the CDC, the MDOH, or the President of the United States with respect to prevention and protection against the spread of this virus, whichever is strictest, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds). It is further,

ORDERED that a curfew shall be, and hereby is, instituted and in place as to all persons found within the City of Gulfport’s corporate limits from 11:00 p.m. to 5:00 a.m. each day of the week until further notice or modification or recession of the same. This curfew applies to all persons, with the exception of the following: (i) public safety officers; (ii) persons working for federal, state and local government or law enforcement; (iii) persons employed by a hospital, urgi-care type facility, medical clinic, medical laboratory, or physician’s office or ambulance service and who are traveling to or from such facility or place of employment; (v) persons going to and from work as permitted in this Proclamation or the “Emergency Mayoral Proclamation of Executive Order” issued on March 20, 2020; (vi) persons suffering a health or medical emergency who are traveling to a hospital, urgi-care type facility, medical clinic, medical laboratory, or physician’s office or similar type facility; (vii) individuals traveling through the City along Interstate 10 or U. S. Highway 90 and who do not stop in the City; and (viii) persons actively involved in the provision of services of an “Essential Business.”

Movement around the City outside of this curfew should be limited to that as set forth and permitted elsewhere herein, and even in such circumstances only upon strict adherence to the most recent regulations or guidelines issued by the CDC, the MDOH, or the President of the United States with respect to prevention and protection against the spread of this virus, whichever is strictest, including, but not limited to, social distancing requirements (e.g., minimally staying at least six (6) feet away from others) and guidelines or guidance on restrictions of gathering of persons (e.g., avoiding groups in excess of ten (10) persons) and regular and proper hand-washing and personal hygiene (e.g., using hand sanitizers that

minimally contain 70% alcohol or washing hands with soap in excess of twenty (20) seconds). It is further,

ORDERED, that this Proclamation of Executive Order does not alter any of the obligations under law of an employer affected by this Proclamation, or the one issued on March 20, 2020, to its employees or to the employees of another employer. It is further,

ORDERED that this Proclamation of Executive Order is herein being issued to the extent allowed by state and federal law and the United States Constitution. It is further,

ORDERED that this Proclamation of Executive Order shall be: (1) filed with the City Clerk; (2) distributed to the news media and other organizations reasonably calculated to bring its contents to the attention of the general public; and (3) distributed to others as necessary to ensure proper implementation of this Proclamation of Executive Order. It is further,

ORDERED that violations of this Proclamation of Executive Order may be subject to misdemeanor prosecution in accordance with, including, but not limited to, Miss. Code Ann. § 45-17-9, as amended, § 7-14 of the City's Code of Ordinances, and, to the extent applicable, Miss. Code Ann. § 33-15-43, as amended, as well as other state laws and provisions in the City's Code of Ordinances. It is further,

ORDERED that, except for what is otherwise set out herein, this Emergency Mayoral Proclamation of Executive Order shall be, and hereby is, effective at 11:59 p.m. on Tuesday, March 31, 2020, and shall remain in effect until amended, rescinded, or superseded by another applicable Mayoral Proclamation or Executive Order or the termination of the current (and ongoing) State of Emergency related to this pandemic issued by the City of Gulfport, whichever shall occur first.

THIS, the _____ day of March, 2020, at _____ p.m.

MAYOR BILLY HEWES
CITY OF GULFPORT, MISSISSIPPI

ATTEST:

GERARD BELLOCQ
CITY CLERK
CITY OF GULFPORT, MISSISSIPPI