

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

COVID-19 EXECUTIVE ORDER NO. 9

**EMERGENCY MAYORAL PROCLAMATION OF
EXECUTIVE ORDER REGARDING ADDITIONAL MEASURES
TO COMBAT THE COVID-19 OUTBREAK IN THE CITY OF
GULFPORT, MISSISSIPPI DURING CONTINUATION OF THE
GOVERNOR'S "SAFE RETURN" EXECUTIVE ORDERS**

WHEREAS, in accordance with 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 declared a state of emergency on March 14, 2020, and issued an "Emergency Proclamation of Executive Order" on March 20, 2020, in an effort to combat the spread of the COVID-19 virus in the City of Gulfport, and such Emergency Proclamation has been followed by the issuance of several additional "Emergency Proclamation of Executive Orders" since that time, including a "Safer-at-Home" Order ("COVID-19 Executive Order No. 2") issued on March 31, 2020; and

WHEREAS, pursuant to the Mississippi's "Emergency Management Act" (Miss. Code Ann. §§ 33-15-1, et seq.), and following the issuance of a State-wide declaration of emergency and the date of my first Emergency Mayoral Proclamation, the Governor of the State of Mississippi has since issued multiple State-wide "Executive Orders" applicable to municipalities and their residents, including "Executive Order No. 1466" issued on April 1, 2020, as a "Shelter in Place" Order, "Executive Order No. 1477" issued on April 24, 2020, as part of his "Safer-at-Home" effort for the State, and "Executive Order No. 1492" issued on May 28, 2020, in conjunction with his "Safe Return" Order; and

WHEREAS, since Executive Order No. 1492 was introduced, the Governor has issued several additional Executive Orders which have, among other things, expanded on the easing of restrictions on business operations and extended the Governor's "Safe Return" Orders through various dates, the latest of which was Executive Order No. 1505 issued on July 2, 2020, and which extends the "Safe Return" Orders through July 20, 2020; and

WHEREAS, on July 10, 2020, the Governor issued Executive Order No. 1507, wherein the Governor stated that the State Health Officer has reported data from certain jurisdictions, including Harrison County, Mississippi, indicates periods of higher numbers of new cases of the COVID-19 virus over shorter periods of time and shows evidence of shared workforce between jurisdictions with common risk factors and active and ongoing community transmission in these Counties; and

WHEREAS, Executive Order No. 1507, among other things, requires that employees in all businesses in the State wear appropriate personal protective equipment (“PPE”), to include face coverings, based on their duties and responsibilities, that employees in all retail businesses who have contact with the public shall wear face coverings, that all customers in retail businesses shall wear face coverings while inside these businesses, face coverings “must be worn” by all persons indoors and outdoors (when unable to maintain a minimum of 6 feet of separation from other individuals) when attending public events (including but not limited to events in outdoor sports complexes, multifield complexes, and arenas); and

WHEREAS, COVID-19 is a disease that has been found to cause upper-respiratory tract illness that can range from mild to severe and which is extremely contagious, can spread quickly, and cause death; and

WHEREAS, as of July 13, 2020, the Mississippi Department of Health (“MDOH”) has reported over 37,540 cases of COVID-19 in Mississippi, with over 1,200 of these cases being in Harrison County, where the City of Gulfport is found; and

WHEREAS, as of July 13, 2020, the MDOH has recorded over 1,270 deaths in the State of Mississippi attributed to COVID-19, with 16 of these deaths occurring in Harrison County; and

WHEREAS, it has further been determined by medical and healthcare professionals as well as by the Centers for Disease Control and Prevention (“CDC”) and the MDOH that a significant number of individuals with COVID-19 lack symptoms and that even those who eventually develop symptoms can transmit the virus to others before showing symptoms, which means that the virus can spread between people who interact in close proximity to each other (e.g., when engaged in talking, coughing, or sneezing), even if such persons are not exhibiting symptoms and therefore might not know or even believe they are contagious or sick; and

WHEREAS, COVID-19 is spread through the transmission of respiratory droplets, and the CDC and the MDOH have previously recommended wearing face coverings in public settings where other social distancing measures are difficult to maintain and in areas of community-based transmission of the disease; and

WHEREAS, with the rising number of positive COVID-19 cases in Mississippi and in Harrison County, it is our duty to care about the quality of life of Gulfport’s residents, including the impact of a healthcare crisis; that requiring the use of face coverings is by no means intended to be penal but instead is needed to encourage smart, safe behavior and to provide a safe community for our citizens; and that “masking up” is a good measure anytime one travels out and about, especially if in contact with others, as part of the effort to slow the spread of this virus and avoid a return to more stringent controls, limitations, and lockdowns; and

WHEREAS, the latest statistics and research demonstrate that success at controlling the spread of the virus depends upon compliance with re-opening guidelines and restrictions and that extraordinary measures related to preventing the spread of the virus are necessary for the health, safety, welfare, and good order to protect the public peace and preserve lives; and

WHEREAS, in recognition of the findings set out in the Governor’s Executive Orders as well as the rationale for ongoing efforts to combat the spread of COVID-19, which I find are still needed and required in the City of Gulfport, I find that there is need for issuance of a further Emergency Mayoral Proclamation to preserve and protect life, property, and good order as well as to safeguard and protect the health, safety, and welfare of the public; and

WHEREAS, I further find that the restrictions set forth in my prior Emergency Proclamations of Executive Order and those set out herein do not prevent any “Essential Business” from operating at such level necessary to provide essential services and functions during the current and ongoing state of emergency associated with the COVID-19 outbreak but are needed and necessary to preserve and protect life, property, and good order as well as to safeguard and protect the health, safety, and welfare of the public.

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 and preservation of life and property and good order, I do hereby issue this Emergency Mayoral Proclamation of Executive Order (also referred to as “Proclamation”) as set out herein.

IT IS HEREBY ORDERED, that in addition to those restrictions, conditions, regulations, and requirements issued previously by the Governor of the State of Mississippi, and which presently have application to residents and visitors of the City of Gulfport, are hereby continued to be adopted and incorporated as those of my “Emergency Mayoral Proclamation of Executive Order” for the City of Gulfport and shall, if not already in effect, take effect at **8:00 a.m. on Wednesday, July 15, 2020**, unless specifically in conflict with any of the following provisions herein. It is further,

ORDERED, that all *businesses and business operations* shall require the following face covering and social distancing measures until further Order of the Mayor or the City’s Governing Authority:

1. All employees shall properly wear face coverings while at work or on duty (unless otherwise excepted herein);
2. Management of each business must provide adequate supervision to ensure compliance with the face covering requirements herein, to include, without limitation, door monitors to monitor the entrance of the public and floor supervision for employees; and
3. Businesses shall display prominent signs at every entrance informing customers of the face covering requirements herein and that customers must practice social distancing (staying six (6) feet away from other customers who did not accompany them to the business).

It is further,

ORDERED, that, unless otherwise excepted herein, *all persons in attendance at social gatherings not from the same household* shall wear face coverings during these gatherings when they are indoors and when they are outdoors if social distancing between persons not from the same household cannot occur in spaces or distances of six (6) feet or more. It is further,

ORDERED, that, unless otherwise excepted herein, *all members of the public shall wear a face covering any time they enter a City building* in the City of Gulfport. It is further,

ORDERED, that face coverings are *not required* for:

1. Persons engaged in an outdoor exercising or sports activity (and who are adhering to applicable social distancing requirements);
2. Persons engaged in swimming activities or other activities while in the water;
3. Persons in a building or engaged in an activity that utilizes or requires security surveillance or screening (*e.g.*, banking or financial institutions), and only during such times when these persons are under security surveillance or screening;
4. Persons who cannot wear a face covering due to a medical or behavioral condition, who have trouble breathing or are incapacitated, or whose healthcare professional has recommended that a face covering not be worn;
5. Persons when eating or drinking (*A face covering must be worn when entering or exiting a restaurant, bar, or other dining establishment and while walking around such establishment*);
6. Private, individual offices and those small offices (offices with fewer than ten (10) employees) where the public does not interact with the employer (all of which involve employees who work alone in separate office spaces or in non-public work places where six (6) or more feet of social distancing may be consistently maintained);
7. Other settings where it is not practical or feasible to wear a face covering, including, but not limited to, when obtaining or rendering goods or services, such as receipt of dental services;
8. Persons whose religious beliefs prevent them from wearing a face covering;
9. Persons driving alone or with passengers who are part of the same household as the driver;
10. Persons while engaged in the pumping of gas or fuel;
11. Persons seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;

12. Persons giving a speech for a broadcast or to an audience;
13. Persons who would be at risk from wearing a face covering at work, as determined by local, State, or Federal regulations or workplace safety guidelines;
14. Persons who have found that his or her face covering is impeding visibility to operate equipment or a vehicle;
15. Persons who are working outdoors, provided they are able to properly adhere during such work to applicable social distancing guidelines or regulations issued by the MDOH and CDC;
16. Persons who are outdoors and are able to properly adhere to applicable social distancing guidelines or regulations issued by the MDOH and CDC; and
17. Children under the age of six (6) (**NOTE** that parents and guardians shall be responsible for ensuring proper use of face coverings by children six (6) years of age and older and must ensure that face coverings do not pose a choking hazard and can be safely worn without obstructing a child's ability to breathe. Parents and guardians shall further exercise sound judgment and avoid bringing children not wearing face coverings into public places, especially where contact with vulnerable individuals is expected.).

It is further,

ORDERED, that regardless of any exceptions set out herein, ***a person must wear a face covering when required by a health officer or otherwise required by any local, State, or Federal law or Executive Order of the Governor of the State of Mississippi.*** It is further,

ORDERED, that "***face covering,***" as used in this Emergency Mayoral Proclamation, must simultaneously cover both a person's mouth and nose but otherwise does not have to be a particular type and can be and include a bandana, scarf, or home-made mask. A "face covering" is considered a device to impede the spread of saliva or other fluids during speaking, coughing, sneezing, or other intentional or involuntary action. It can be made of cloth, fabric, or other permeable material but shall not have holes. It can also consist of a plastic shield. Re-useable face coverings should be washed or cleaned frequently and ideally washed/cleaned after each use. A covering that hides or obscures the wearer's eyes or forehead is not a "face covering." The "face covering" should be comfortable so that the wearer can breathe comfortably through the nose and so that the wearer does not have to adjust the covering frequently, so as to avoid touching the face. It is further,

ORDERED, that businesses and services that are subject to regulatory oversight of a separate State or Federal agency shall follow the guidelines and regulations of such agency or regulatory body if there is a conflict with this Emergency Mayoral Proclamation. It is further,

ORDERED, that nothing in this Emergency Mayoral Proclamation shall prevent a business or business operation or service from adopting or implementing more restrictive policies or requirements in terms of face coverings or other measures to contain and prevent the spread and transmission of the COVID-19 virus. It is further,

ORDERED, that nothing in this Emergency Mayoral Proclamation shall obligate or require a business or employer to purchase or provide face coverings for employees or the public. It is further,

ORDERED, that face coverings are meant to protect the public from the spread of the COVID-19 virus. They are not a substitute for other evidence-based measures to prevent the spread of this virus. Face coverings should therefore be used *in addition to*, but not in place of, other evidence-based measures, such as social distancing, frequent hand washing practices, avoiding the touching of eyes, nose, and mouth; and avoiding any interactions if sick. 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 while 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, § 7-19 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, citations under this Order involving incidents that occur on properties owned or used by businesses, business operations, or organizations shall be written only to those businesses, business operations, or organizations that fail to enforce the requirements to wear “Face Coverings.” Businesses, business operations, and organizations are entitled to rely on their customers’ or patrons’ statements about whether or not they are excepted from the “Face Covering” requirements herein, and businesses, business operations, and organizations do not violate this Executive Order if they rely in good faith upon such statements.

1. Law enforcement personnel are not authorized to criminally enforce the “Face Covering” requirements of this Executive Order against individual workers, customers, or patrons of businesses, business operations, and organizations.
2. However, if a business, business operation, or organization does not allow entry to a worker, customer, or patron because that person refuses to wear a “Face Covering,” and if that worker, customer, or patron enters the premises or refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws that the worker, customer, or patron may violate.

ORDERED that, except for what is otherwise set out herein, this Emergency Mayoral Proclamation of Executive Order shall be, and hereby is, effective at **8:00 a.m. on Wednesday, July 15, 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 July, 2020, at _____ p.m.

MAYOR BILLY HEWES
CITY OF GULFPORT, MISSISSIPPI

ATTEST:

GERARD BELLOCQ
CITY CLERK
CITY OF GULFPORT, MISSISSIPPI