

ORDINANCE NO. 645-04-2020
CITY OF BAY ST. LOUIS, MISSISSIPPI

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BAY ST. LOUIS
PERTAINING TO VIOLATIONS OF ORDERS OF CURFEWS, OTHER ORDERS AND
PROHIBITING ACTIVITIES IN THE CITY BY THE MAYOR DURING A PROCLAIMED
CIVIL EMERGENCY

WHEREAS, the Mayor has the legal authority to proclaim a state of emergency within the City of Bay St. Louis pursuant to § 45-17-3, Miss. Code Ann. (1972); and

WHEREAS, § 45-17-5, Miss. Code Ann. (1972) allows the chief administrative officer, to order a general curfew applicable to such geographical areas of the municipality or to the municipality as a whole as deemed advisable, and applicable during such hours of the day or night as deemed necessary in the interest of the public safety and welfare; and

WHEREAS, pursuant to § 45-17-7, Miss. Code Ann. (1972) the chief administrative officer has the discretion, in the interest of public safety and welfare to (1) Order the closing of all retail liquor stores; (2) Order the discontinuance of the sale of intoxicating liquor and/or beer; (3) Order the discontinuance of the manufacture, transfer, use, possession or transportation of a Molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion; (4) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever; and (5) Issue such other orders as are necessary for the protection of life and property; and

WHEREAS, § 45-17-3, Miss. Code Ann. (1972) provides that a municipality may provide by ordinance that at any person violating the provisions of orders issued by the chief administrative officer pursuant to this authorization during a proclaimed civil emergency be guilty of a misdemeanor and be punished by a fine not exceeding Three Hundred Dollars (\$300.00) or six (6) months imprisonment, or both such fine and imprisonment.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Bay St. Louis as follows that Ordinance Number 645-04-2020 is adopted as follows:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BAY ST. LOUIS
PERTAINING TO VIOLATIONS OF ORDERS OF CURFEWS, OTHER ORDERS AND
PROHIBITING ACTIVITIES IN THE CITY BY THE MAYOR DURING A PROCLAIMED
CIVIL EMERGENCY

Section 1. For purposes of this section, a "civil emergency" is defined as any emergency in the city defined as a civil emergency by § 45-17-1, Miss. Code Ann. (1972), including the following:

- (A) A riot or unlawful assembly characterized by any use of force or violence disturbing the public peace, or any threat to use such force and violence, if accompanied by

immediate power of execution, by two (2) or more persons acting together and without authority of law.

(B) Any natural disaster or manmade calamity including, but not limited to, flood, conflagration, cyclone, tornado, earthquake or explosion within the geographic limits of the municipality resulting in the death or injury of persons, or destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(C) The destruction of property, or the death or injury of persons brought about by deliberate acts of one (1) or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

Section 2. For purposes of this section, a "curfew" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing, sitting, lying or motoring upon any alley, street, public property or vacant premises within the corporate limits of the municipality except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter.

Section 3. For purposes of this section, "chief administrative officer" during a proclaimed civil emergency as referred to in title 17, chapter 45, Miss. Code Ann. (1972) is the mayor or in his absence, the duly appointed mayor pro tem of the city.

Section 4. After a state of emergency has been declared by the governing authority of the city, and during the period of the state of emergency, pursuant to § 45-17-3, Miss. Code Ann., when, in the judgment of the chief administrative officer a civil emergency as defined herein is determined to exist, he shall forthwith proclaim in writing the existence of the same, and a copy of which proclamation will be filed with the clerk of the city.

Section 5. *Curfew order.* After proclamation of a civil emergency by the chief administrative officer, he may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he deems advisable, and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the chief administrative officer. If the order does not specify geographic limits for which it applies, then it shall apply to the city as a whole. Unless otherwise rescinded by the chief administrative officer, the curfew order shall stay in effect until the expiration of the proclaimed civil emergency.

Section 6. *Exemptions from curfew orders.* Curfews ordered under this section shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained written permission of the local chief of police or other law enforcement officer then in charge of municipal law enforcement, including the permission of the chief administrative officer, which permission shall be granted on good cause shown. This curfew shall not apply to medical personnel in the performance of their duties, or any employees of the city or of the city's contractors who are acting within the scope of their employment performing essential public service during the time of civil emergency.

Section 7. *Order(s) prohibiting activities.* After proclamation of a civil emergency, the chief administrative officer may at his discretion, in the interest of public safety and welfare issue any such order(s) or proclamation(s) as are necessary for the protection of life and property.

Attachment: Ordinance for State of Emergency (2389 : Ordinance for State of Emergency.)

Section 8. *Violations of orders declared misdemeanors; penalties.* Any person violating the provision of orders issued by the chief administrative officer pursuant to this section during a proclaimed civil emergency shall be guilty of a misdemeanor and may be punished by a fine not exceeding three hundred dollars (\$300.00) or six (6) months' imprisonment, or both such fine and imprisonment. These penalties shall not exceed the penalties that may be imposed under § 45-17-9. Miss. Code Ann. (1972), if amended.

After being reduced to writing, the forgoing Ordinance was read and considered, section by section, and then as a whole, whereupon, Councilman Larry Smith moved for its adoption, and after a second by Councilman Buddy Zimmerman, the following roll call vote was had:

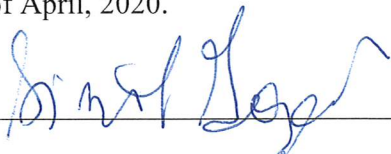
Councilman Gary Knoblock	<u>YEA/NAY</u>
Councilman Doug Seal	<u>YEA/NAY</u>
Councilman Gene Hoffman	<u>YEA/NAY</u>
Councilman Jeffery Reed	<u>YEA/NAY</u>
Councilman Larry Smith	<u>YEA/NAY</u>
Councilman Buddy Zimmerman	<u>YEA/NAY</u>
Councilman Josh Desalvo	<u>YEA/NAY</u>

Approved by the City Council of the City of Bay St. Louis on the 2nd day of April, 2020.

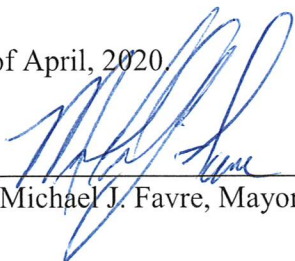
CERTIFICATION

I, Sissy H. Gonzales, City Clerk for the City of Bay St. Louis, Mississippi, do hereby certify that the foregoing Ordinance Number 045-04-2020 was approved and adopted in the public meeting of the City Council held on April 2, 2020, a quorum being present, in the City Council Conference Chambers and to be recorded in the Minute Books, said Council being the duly elected, qualified, and acting governing body of Bay St. Louis.

Presented by me to the Mayor on this, the 2 day of April, 2020.


Sissy H. Gonzales, City Clerk

Approved and signed by me on this, the 2 day of April, 2020.


Michael J. Favre, Mayor

Attachment: Ordinance for State of Emergency (2389 : Ordinance for State of Emergency.)