

**CIVIL EMERGENCY PROCLAMATION AND EXECUTIVE ORDER
AMENDING SAFER AT HOME DIRECTIVE AND IMPLEMENTING
PHASE 2 OF THE “BACK TO BUSINESS” PLAN**

BY MAYOR JIM STRICKLAND, CITY OF MEMPHIS

No. 16-2020

WHEREAS, Coronavirus Disease 2019 (“COVID-19”) is a communicable respiratory disease that can lead to serious illness or death, particularly in the case of elderly adults and persons with serious chronic medical conditions; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and

WHEREAS, on March 17, 2020, I declared a state of emergency for the City of Memphis, pursuant to Tennessee Code Annotated § 38-9-101 et seq. and § 58-2-101 et seq. and City of Memphis Code §§ 9-8-4 and 2-58-7 in response to the COVID-19 pandemic; and

WHEREAS, pursuant to the authority invested in the Mayor under Tennessee Code Annotated § 38-9-101, et seq. and City of Memphis Code §9-24, et seq., the Mayor may proclaim in writing the existence of a civil emergency and, in the interest of public safety and welfare, may make all orders necessary for the protection of life and property, including but not limited to, the closure of certain establishments; and

WHEREAS, on March 19, 2020, pursuant to the authority invested in the Mayor under Tennessee Code Annotated § 38-9-101, et seq. and City of Memphis Code §9-24, et seq., I issued Civil Emergency Proclamation and Executive Order No. 01-2020 closing restaurants and bars for on-site consumption as well as closing gyms and exercise facilities; and

WHEREAS, on March 21, 2020, I issued Civil Emergency Proclamation and Executive Order No. 02-2020, providing for the additional closures of entertainment and recreational establishments; and

WHEREAS, on March 23, 2020, I issued Civil Emergency Proclamation and Executive Order No. 03-2020 closing non-essential business and directing residents to stay at their place of residence unless for purposes otherwise allowed thereunder (“Safer at Home Order”); and

WHEREAS, on April 6, 2020, I issued Civil Emergency Proclamation and Executive Order No. 06-2020 amending the Safer at Home Order and extending it to April 21, 2020. Subsequently, I issued Civil Emergency Proclamation and Executive Order No. 10-2020 extending the Safer at Home Order to May 5, 2020; and

WHEREAS, while COVID-19 continues to impact public health, the proactive measures implemented locally to prevent the spread of COVID-19 have helped mitigate the progression of the disease in the City; and

WHEREAS, COVID-19 has also presented significant challenges to the City’s economy, thus making it is necessary to introduce measures that alleviate some burdens on the economy while also balancing the need to protect citizens; and

WHEREAS, the City has developed the “Back to Business” framework for a phased approach to re-opening businesses in Memphis (“Back to Business Plan”), which is data-driven and informed by indicators and conditions that serve as measurements of the status of the pandemic and the capacity to deal with the pandemic in the City of Memphis; and

WHEREAS, based on the data and metrics identified for the Back to Business Plan, it is prudent and appropriate to implement the initial phase of the Back to Business Plan; and

WHEREAS, on May 1, 2020, I issued Civil Emergency Proclamation and Executive Order No. 12-2020 implementing the first phase of the Back to Business Plan by re-opening certain businesses subject to COVID-19 prevention protocols and industry-specific regulations, which was amended by Civil Emergency Proclamation and Executive Order No. 13-2020; and

WHEREAS, on May 4, 2020, the Shelby County Health Department issued Health Directive No. 3, removing “certain restrictions on the ability to return to work and engage in essential activities”, and allowing certain businesses to open and operate thereunder;

WHEREAS, On May 18, 2020, The Shelby County Health Department issued Health Directive No. 4 amending its previous Health Directive No. 3 by removing additional restrictions (“Health Directive”); and

WHEREAS, minimizing in-person contact and avoiding unnecessary public interactions are critical to continuing to prevent the spread of COVID-19, preserving healthcare resources, and improving conditions that will allow more economic activity to resume in the City; and

WHEREAS, the community must remain vigilant about adhering to social distancing guidelines and hygiene practices to continue the containment of COVID-19.

NOW, THEREFORE, I, JIM STRICKLAND, MAYOR OF THE CITY OF MEMPHIS, by virtue of the powers vested in me, do hereby proclaim that a civil and health emergency continues to exist in the City of Memphis, Tennessee, and consistent with Shelby County Health Department Directive No. 4, I hereby amend and replace Executive No. 13-2020 and direct as follows:

1. Limit In-Person Contact and Public Interactions. Individuals should stay at their place of residence except when engaging in necessary activities, such as activities related to employment, travel, health and safety, or other activities permitted by this Order. All individuals currently living within the City should minimize in-person contact with individuals outside a single household or living unit and avoid all unnecessary public interactions and travel.
 - a. Individuals must adhere to Social Distancing Requirements as defined in this Order to protect themselves and their communities from the spread of COVID-19.
 - b. Individuals riding on public transit must comply with Social Distancing Requirements as defined in this Order, to the greatest extent feasible.
 - c. All persons with COVID-19 or with COVID-19 symptoms are required to stay at home, except to receive medical care, and are expected to abide by all requirements of the Shelby County Health Department.
2. Gatherings of 50 or More Prohibited. All public and private social gatherings of more than fifty (50) people occurring outside a single household or living unit are prohibited, except for the limited purposes as expressly permitted by this Order. Nothing in this Order prohibits the gathering of members of a household or living unit.
3. Continued Closure of Certain Businesses, Events, and Venues. The following must continue to be closed to members of the public:
 - a. Entertainment, performance, and event venues, including but not limited to:
 - i. Theaters, indoor movie theaters, cinemas, auditoriums, performing arts centers, and other similar entertainment facilities and businesses;

- ii. Bars, night clubs, lounges, live performance venues, and other similar entertainment facilities and businesses; provided that, “limited service restaurants,” as defined in Tenn. Code Ann. § 57-4-102(22), may serve food to customers for onsite consumption (i.e. cannot serve only beverages; customers required to order food in addition to beverages). In addition, such “limited service restaurants” may also offer drive-thru, pickup, carry-out, or deliver service for food and beverages. “Limited service restaurants” operating as allowed in this section must follow all regulations and protocols applicable to restaurants;
 - iii. Adult entertainment venues, adult cabarets (as defined under City of Memphis Code 6-72-2), and other similar entertainment facilities and businesses; and
 - iv. Sporting event arenas and venues; and
 - v. Banquet halls, ballrooms, event centers, and other similar event venues, except for the purpose of hosting a wedding or funeral.
- b. Festivals, parades, races (such as 5k races), and similar public and community events and activities are prohibited.
 - c. Public and private non-residential schools and summer camps are to remain closed, until further guidance is provided by the Shelby County Health Department.
 - d. Any other business or service that the City and Shelby County Health Department determine is necessary for public health and safety.

The purpose and offering of a business on or before May 1, 2020 shall be the basis for determining whether the business must be closed.

However, businesses that are closed pursuant to this paragraph shall be permitted to engage in minimum activities to maintain such businesses and its facilities such as maintaining inventory; preserving physical plant, premises and equipment; ensuring the security of the business and its facilities; processing mail, payroll, and employee benefits; facilitating employees of the business to work remotely from home; or otherwise conducting any functions related to the states activities (“Minimum Basic Operations”).

4. Businesses Allowed to Operate in Phase 2. Businesses that are not closed pursuant to paragraph 3 of this Order shall be allowed to operate in Phase 2 of the Back to Business Plan subject to applicable rules and regulations. Such businesses allowed to operate in Phase 2 includes the following businesses that were previously closed in Phase 1 of the Back to Business Plan: (1) personal appearance businesses and other businesses that perform close-contact personal services such as nail salons, spas, waxing salons, threading salons, tanning salons, tattoo salons, and massage-therapy establishments; (2) contact sport facilities such as basketball courts, soccer fields, softball/baseball fields, combat sports gyms (such as martial arts and boxing), and other similar facilities; (3) pools, for fitness-focused swimming and reduced recreational swimming; (4) museums and other tourist attraction facilities; (5) recreational facilities such as bowling alleys, indoor climbing, arcades, skating rinks, and miniature golf; and (6) car washes. Businesses allowed to operate in Phase 2 must operate in accordance with the COVID-19 Complaint Protocol, pursuant to paragraph 6 of this Order, and must follow any additional protocols that may be required for its industry issued by Shelby County Health Department. Face coverings are required for all employees interacting with the public, working with or around a co-worker, or preparing and serving food.

5. Occupancy Limits for Certain Businesses During Phase 2. The following businesses shall be limited to 50% of the maximum occupancy for the facility (which includes employees, vendors, and members of the public) during Phase 2 of the Back to Business Plan:
- a. Retail establishments, including grocery and hardware retail stores, and commercial businesses, not otherwise excepted under this Order;
 - b. Restaurants and other establishments serving food;
 - c. Libraries and other civic facilities;
 - d. Fitness gyms and exercise facilities;
 - e. Museums and other tourist attraction facilities;
 - f. Indoor recreational facilities; and
 - g. Indoor contact and non-contact sports facilities.

The maximum occupancy for a facility shall mean such maximum occupancy as determined pursuant to the Memphis and Shelby County Building Code. Notwithstanding the foregoing occupancy limits, businesses must ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times.

For recreational swimming, the number of individuals in the pool should be limited to 25% capacity of the area where recreational swimming is occurring.

Personal appearance businesses are required to adhere to industry-specific occupancy restrictions such as, prohibited use of waiting areas, and other restrictions and regulations issued by the City and the Shelby County Health Department.

Contact sport facilities are also required to adhere to industry-specific occupancy restrictions and regulations issued by the City and the Shelby County Health Department.

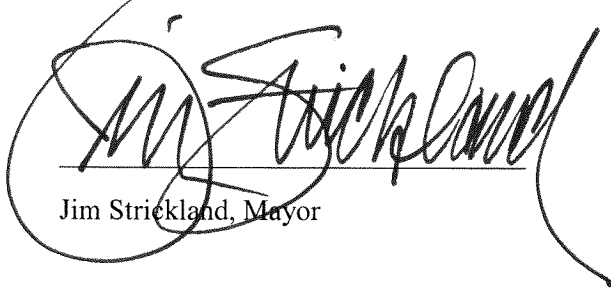
6. Businesses Allowed to Operate in Phase 2 Must Comply with Protocols. All businesses allowed to operate are required to implement any industry-specific protocols issued by the City and the Shelby County Health Department. Said protocols may be found here: <https://backtobusiness.memphistn.gov/protocols/>. The COVID-19 Compliant Protocol, in addition to any additional required protocols, must be posted conspicuously near the facility entrances. Implementation and strict compliance with said protocols are required for operating any business allowed under this Order. The City may take any and all necessary actions to enforce compliance with said protocols for the benefit of public health and safety.
7. Social Distancing Requirements. All businesses and activities permitted under this Order are required to practice Social Distancing. For purposes of this Order, “Social Distancing Requirements” shall refer to the guidelines issued by the Shelby County Health Department and the Center for Disease Control (“CDC”) for COVID-19 prevention measures, which includes: screening of employees for symptoms; maintaining at least six-foot social distancing from other individuals; washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer; covering coughs or sneezes (into the sleeve or elbow, not hands); regularly disinfecting high-touch surfaces; not shaking hands; and wearing facial coverings when in public. Individuals are strongly urged to wear facial coverings or masks when engaging with or entering a business.
8. Designated Shopping Hours at Big Box Retailers for Vulnerable Populations. All big box grocery, pharmacy and hardware retail establishments provide at least one hour of controlled

access to customers who are age 55 and older, pregnant, or have serious underlying medical conditions. This requirement is not applicable to beverage stores, convenience stores, and similar establishments. Limited access is intended to protect vulnerable populations from additional or unnecessary risk of contracting COVID-19. The hour(s) for controlled access for such customers shall be conspicuously posted at the facility.

9. Medical and Dental Procedures. Medical and dental procedures are subject to regulations and restrictions pursuant to Executive Orders issued by the Governor of the State of Tennessee.
10. Places of Worship; Weddings and Funerals. Places of worship are subject to regulations and restrictions pursuant to Executive Orders issued by the Governor of the State of Tennessee. Places of worship are strongly encouraged to continue to utilize virtual or online services and are strongly encouraged to follow best practices and applicable guidelines to conduct in-person services safely. Religious services, rites or gatherings, wedding ceremonies and funerals are not subject to gathering restrictions and shall not be prohibited pursuant to said Executive Orders issued by the Governor of the State of Tennessee.
11. Face Coverings in Public Places. In accordance with CDC guidelines, members of the public are strongly encouraged to wear cloth face coverings or other similar coverings in public settings where being in close contact to others is anticipated. Face coverings should not be placed on children under the age of 2, anyone who has trouble breathing, or anyone who is incapacitated or otherwise unable to remove the mask without assistance. Surgical masks and N-95 respirators should be reserved for healthcare workers and first responders.
12. City Parks. Golf courses and parks will remain open. Citizens using City parks are required to adhere to the Social Distancing Requirements
13. Businesses Allowed to Operate Not Required to Re-Open. Nothing in this Order shall be construed to require businesses allowed to operate in Phase 2 to re-open or prohibit said business to operate in a more restrictive manner than stated herein. All businesses and employers are strongly urged to allow and equip employees to work remotely or telework.
14. Applicability. For the purposes of this Order, businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function it performs, or its corporate or entity structure.
15. Authority to Enforce. The Memphis Police Department and other City and Shelby County officials are authorized to enforce this Order and close those businesses within the City of Memphis in violation of this Order. The City may enforce this Order pursuant to all mechanisms and methods available to the City under any applicable law.
16. Severability. A determination that any provision of this Order is invalid will not affect the enforceability of any other provision of this Order. The remaining provisions shall remain in full force and effect. Any invalid provision will be modified to the extent necessary for enforceability.
17. Conflict of Terms. In the event of any inconsistency between the provisions of this Executive Order and any provision of Health Directive No. 4 or any subsequent Health Directives issued by the Shelby County Health Department, the terms and provisions of said Health Directive(s) shall govern and control.

18. Effective Date and Term. This Order shall be effective at Midnight, on Tuesday, May 19, 2020 and shall remain in effect until 11:59 p.m. on June 1, 2020, unless otherwise extended in the best interest of public health and safety.
19. Supersedes Previous Order. This Order shall supersede the directives of Executive Order No. 13-2020.

Upon signature, this Order shall become effective immediately on May 19, 2020.



Jim Strickland, Mayor

Executed this 19th day of May, 2020.