

Butler Snow LLP
Summary of Mississippi Quarantine Law Applicable to Municipalities and Counties

<u>Citation</u>	<u>Statute or Relevant Language</u>
Miss. Code. Ann. § 21-19-3	The governing authorities of municipalities shall have the power to make regulations to prevent the introduction and spread of contagious or infectious diseases; to make quarantine laws for that purpose, and to enforce the same within five miles of the corporate limits; and to establish pesthouses outside the corporate limits, and to provide for the support and government of the same.
Miss. Code. Ann. § 21-19-1	(1) The municipal governing authorities of any municipality shall have the power to make regulations to secure the general health of the municipality; to prevent, remove, and abate nuisances; to regulate or prohibit the construction of privy vaults and cesspools, and to regulate or suppress those already constructed; to compel and regulate the connection of all property with sewers and drains; to suppress hog pens, slaughterhouses and stockyards, or to regulate the same and prescribe and enforce regulations for cleaning and keeping the same in order; to regulate and prescribe and enforce regulations for the cleaning and keeping in order of warehouses, stables, alleys, yards, private ways, outhouses, and other places where offensive matter is kept or permitted to accumulate; and to compel and regulate the removal of garbage and filth beyond the corporate limits. The municipal governing authorities are further authorized to adopt and enforce regulations governing the disposal of garbage and rubbish in sanitary landfills owned or leased by the municipality, whether located within or outside of the corporate limits of the municipality, to the extent that such regulations are not in conflict with or prohibited by regulations of the Commission on Environmental Quality adopted under Section 17-17-27.
Miss. Code. Ann. § 41-23-2	Any person who shall knowingly and willfully violate the lawful order of the county, district or state health officer where that person is afflicted with a life-threatening communicable disease or the causative agent thereof shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment in the penitentiary for not more than five (5) years, or by both.
Miss. Code. Ann. § 41-23-31	Any town, city or county is hereby authorized to make donations to the state board of health to assist in the enforcement of Sections 41-23-25 through 41-23-29.
Miss. Code. Ann. § 11-46-9(k)	A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim: arising out of the imposition or establishment of a quarantine, whether such quarantine relates to persons or property
Miss. Code. Ann. § 41-3-41	It shall be the duty of the county health officer to administer programs and enforce the public health provisions of the Mississippi Code and the rules and regulations of the state board of health applicable in his county. He shall report his actions and all informations and results of his investigations to the board of supervisors and state board of health, and he shall do such other things as the state board of health may lawfully require of him.

Miss. Code. Ann. § 43-31-1	The board of supervisors of each county shall have the jurisdiction and power necessary and proper for the relief and support of the poor of its county, and it shall have control of the county home, and may employ a suitable person to take charge of the same. It shall see that the poor are properly treated; and it may provide nurses and physicians in such cases as it may deem proper, and purchase medicines, and payment therefor may be ordered out of the proper fund by warrant on the county treasurer.
Miss. Code. Ann. § 33-15-17	<p>(a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan. Each county shall develop an emergency management plan and program that is coordinated and consistent with the State Comprehensive Emergency Management Plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to this section shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state emergency management plan and program.</p> <p><i>For full statute:</i> https://bit.ly/3bbVJm7</p>
Miss. Code. Ann. § 21-13-11	Every ordinance passed by the governing body of a municipality, except as is otherwise provided by law, shall be certified by a municipal clerk, signed by the mayor or a majority of all the members of the governing body, recorded in the ordinance book, and published at least one (1) time in some newspaper published in such municipality, or, if there be no such newspaper, then in a newspaper within the county having general circulation in said municipality, or, if there be no newspaper published in or having general circulation in same, then in any newspaper published in the State of Mississippi having general circulation in said county; and all of same shall be done before such ordinance shall be effective. The publication of the ordinance may be made as provided in Section 21-17-19. No ordinance shall be in force for one (1) month after its passage; however, any ordinance for the immediate and temporary preservation of the public peace, health or safety

	<p>or for other good cause, which is adopted by unanimous vote of all members of the governing body, may be made effective from and after its passage by a unanimous vote of all members of the governing body. However, in such cases, such ordinance shall contain a statement of reason why it is necessary that same become immediately effective. All such ordinances shall be published and recorded in the ordinance book in the same manner as other ordinances, but shall become effective immediately upon the adoption thereof, and prior to being so recorded and published. Nothing in this section shall apply to ordinances appropriating money for the payment of the current expenses of the municipality or the payment of sums due on any contract previously made.</p>
<i>Hartman v. May</i> , 168 Miss. 477, 151 So. 737 (1934)	<p>“State police power may be delegated to municipalities for appropriate purpose and may be exercised by municipalities for protection of health of their inhabitants.”</p> <p>“In determining validity of ordinance enacted under statute authorizing municipality to make regulations to secure general health, and prevent spread of contagious diseases, court will not consider wisdom of ordinance but merely whether it constitutes reasonable exercise of power granted.”</p>
James A. Bob, A.G. Op. (June 11, 2004)	<p>“In <i>Hartman v. May</i>, 151 So. 737, 738, 168 Miss. 477 (1934), the Mississippi Supreme Court considered a grant of authority related to “general health.”</p> <p>The right of the Legislature to enact reasonable health regulations finds its basis in the police power of the state, and this police power may be delegated for appropriate purposes to the various municipalities, and it may be validly exercised by such municipalities for the protection of the health of their inhabitants.</p> <p>By the statutes referred to above, the Legislature has expressly authorized municipal authorities “to make regulations to secure the general health of the municipality” and “to make regulations to prevent the introduction and spread of contagious or infectious diseases” and “make quarantine laws for that purpose,” and, in determining the validity of ordinances enacted in pursuance of this grant of power, the court will not consider whether such ordinances are wise or expedient, but merely whether they are a reasonable exercise of the power and authority granted to municipalities.”</p>
<i>City of Jackson v. Whiting</i> , 84 Miss. 163, 36 So. 611, 613 (1904)	<p>It is the fundamental principle of our form of government that the liberty of the individual must be subordinated to the public good, and cases can easily be imagined where the safety, welfare, and health of the entire city might be imperiled by the location at its very gates of an unincorporated community which would be beyond its police power, and could defy its quarantine and sanitary regulations.</p>
<i>Gillis v. Indian Creek Drainage Dist.</i> , 155 Miss. 160, 124 So. 262, 265 (1929)	<p>The fact that municipalities have power over health and quarantine, usually granted by statute, does not deprive the Legislature of the power to confer a jurisdiction in other bodies to further those objects. In fact, the state has created a state board of health which has jurisdiction over municipalities as well as other territory in the state.</p>
<i>Town of Kosciusko v. Slomberg</i> , 68 Miss. 469, 9 So. 297, 298 (1891)	<p>“The charter of the town of Kosciusko confers upon the authorities of that municipality the power of establishing and enforcing quarantine and other regulations necessary to the health of the town; of making</p>

(full case cited)	<p>regulations to secure the general health of the inhabitants of the town, and to prevent and remove nuisances; and of passing all ordinances which may be necessary to carry into effect the powers conferred. In supposed pursuance of these charter powers, the municipal authorities adopted an ordinance declaring it unlawful for any person to bring into the town or to offer for sale therein second-hand clothing, without first having produced satisfactory proof to the mayor of the town that such clothing did not come from a district or locality in which any contagion or infection was prevailing or had prevailed. The power to prevent the introduction of infectious and contagious diseases, by appropriate regulations, is not to be disputed. But, to justify the sweeping and far-reaching use of the power exercised in the ordinance in the case before us, there must be, at least, some circumstances apparently rendering such exercise of this power necessary for the preservation of the health of the public. The town may quarantine, in cases demanding that extraordinary measure, in seasons of epidemic, in the interest of public health, but to justify the exercise of this power there must be apparent necessity for so doing. In such cases, regulations unpleasantly or injuriously affecting the individual may be properly employed to accomplish the general safety. But, in the absence of any epidemic apparently requiring the use of quarantine regulations and regulations restraining trade, temporarily, the exercise of such power, in the manner employed in the ordinance of the town of Kosciusko, becomes unreasonable and oppressive. The ordinance is in restraint of a legitimate trade, and is unequal and unjust in its terms and operation. It cannot be contended that a second-hand clothing store is a nuisance <i>per se</i>, or that second-hand goods are infectious in their nature. If brought from a locality in which infectious and contagious diseases are prevailing or have recently prevailed, second-hand goods might properly be regarded as endangering the general safety and public health; but the same is equally true of new and unused goods. Between the new and the second-hand, the difference, at the most, is a degree in danger only. Why impose the burden in the one case, and not in the other? And why impose, in either case, where there is no pretext of apparent necessity for such interference with lawful traffic? The ordinance is clearly an unreasonable and unjust interference with legitimate and recognized business pursuit, and is a permanent restraint upon trade. Affirmed.”</p>
<i>Jones v. De Soto Cty. Sup'rs</i> , 60 Miss. 409, 417 (1882)	<p>By sect. 797 it is provided “that the chief health officer of any county, or any municipal Board of Health may establish local quarantine for their respective counties, or towns, or cities, and enforce the same by such rules and regulations as they may prescribe; but the State Board of Health shall have supervisory power over such quarantine, and may alter, amend or supersede the same. But if, in the opinion of the State Board of Health, it becomes necessary to establish a quarantine in any county, city or town, and the local health authorities shall fail, or refuse to do so, then the State Board of Health shall establish and conduct such quarantine at the expense of the State, the same to be paid for out of the appropriation provided for in sect. 18 of this act.”</p>
<i>Alabama & V.R. Co. v. Tirelli Bros.</i> , 93	<p>“In 1905, the city of Vicksburg was in the throes of a yellow fever panic, and the city council had by</p>

Miss. 797, 48 So. 962, 962 (1909)	ordinance established a quarantine against all bananas from New Orleans.”
<i>Bolivar Cty. v. Wal-Mart Stores, Inc.</i> , 797 So. 2d 790, 796 (Miss. 1999)	The Mississippi Emergency Management Law is not to be read <i>in pari materia</i> with Miss.Code Ann. § 31–7–13(k).
<i>W.C. Fore v. Mississippi Dep't of Revenue</i> , 90 So. 3d 572, 579 (Miss. 2012)	<i>Bolivar County</i> involved a dispute between a county and a town as to who was responsible for a charge account. <i>Id.</i> at 790. An ice storm hit Bolivar County in 1994, and the county allowed the town to use its charge account at a local Wal–Mart to purchase supplies after the storm. <i>Id.</i> at 791. Wal–Mart charged both the county and the town for the supplies, and both refused to pay, claiming that the other was responsible for the charges. <i>Id.</i> at 792. Discussing who was responsible for the Wal–Mart charges, the Court considered which statutes govern in emergency situations and how they should be construed. <i>Id.</i> at 793. The Court looked at two conflicting statutes-Mississippi Code Sections 33–15–17 and 31–7–13(k). <i>Id.</i> at 794–95. Mississippi Code Section 33–15–17 (Rev. 2010) allows municipalities to enter into contracts in times of emergency for the purpose of ensuring the public health and safety. Mississippi Code Section 31–7–13(k) (Rev. 2010) addresses emergency purchase powers and allows municipalities to forego normal competitive bidding procedures. In addressing the two statutes, this Court found that Section 33–15–17 “is the controlling statute in times of emergency.” <i>Id.</i> at 795. Because Section 33–15–17 controls during times of emergency, the Court found that it could not be read in conjunction with Section 31–7–13(k). <i>Id.</i> at 796.