



CITY OF BEND

DECLARING A LOCAL STATE OF EMERGENCY IN THE CITY OF BEND PROHIBITING USE OF FIREWORKS

The City Manager of the City of Bend finds that:

- A. The Governor declared a drought for Deschutes County on June 8, 2021.
- B. In response to excessive heat and extremely dry conditions, on June 28, 2021 the City Manager of the City of Bend declared an emergency that included a prohibition on the use of fireworks, with an exception for fireworks displays approved by Bend Fire & Rescue and the Oregon State Fire Marshall. The Emergency Declaration and a subsequent extension through August 31, 2021 were ratified by the Bend City Council.
- C. The extreme heat and dry conditions are still contributing to high fire danger. As of June 28, 2021, the Deschutes National Forest fire danger was Extreme. It remains Extreme as of mid-August.
- D. The use of fireworks that are legal under state law has been allowed in Bend. Bend Municipal Code 5.30.000 regulates fireworks within the City.
- E. According to the National Fire Protection Association, fireworks cause over 19,000 fires and require emergency room treatment for over 9,000 people in the United States each year.
- F. On June 30, 2021, the Governor declared a statewide wildfire emergency through Executive Order 21-17. The Order remains in effect until the earlier of November 1, 2021 or until the wildfire threat is significantly relieved or the fire season ends, as determined by the Governor.
- G. Shortly after the City of Bend issued the June 28, 2021 Emergency Declaration, many other jurisdictions around Oregon followed and imposed restrictions on fireworks, including several jurisdictions in Central Oregon.
- H. Bend Fire & Rescue experienced a significant reduction in fireworks related calls on the July 4th holiday compared to incident data from the last five years.
- I. The current fire danger in Bend and the surrounding area is categorized as Extreme. The current fire danger is expected to remain at the highest level of Extreme throughout the wildland fire season, with an expected duration well into the fall.

J. According to Bend Fire & Rescue, the drought conditions and the unseasonably high temperatures support an extension of the Emergency Declaration in Bend to mitigate any negative impacts on the service demand of firefighting resources.

K. During the August 4, 2021 City Council meeting, the City Council discussed regulating fireworks and planned to consider legislative changes to the Bend Municipal Code. In the meantime, and to preserve public safety and mitigate fire risk in the interim, the Council was supportive of continuing the local prohibition on fireworks use through December 1, 2021.

L. Pursuant to ORS 401.309(1), the governing body of a city may declare, by ordinance or resolution, that a state of emergency exists within the city, which ordinance/resolution may establish procedures to prepare for and carry out activity to prevent, minimize, respond to or recover from an emergency. The City's emergency ordinance (codified in the Bend Code) establishes the procedures for declaring a state of emergency by the City Manager, with ratification by the City Council, and the actions that can be taken.

M. Pursuant to Bend Municipal Code (Chapter 1.60, if the City Manager determines that a state of emergency exists, the City may declare a state of emergency when "the health, safety or welfare of the City" is "threatened by a potential or actual natural disaster, accident, act of war or terrorism, disease, or other event or ongoing occurrence that results in an immediate and substantial threat to life, health or property." Section 1.60.010 sets out the actions the City can take, which include the ability to close or limit access to public places, other actions, and also broad authorization to take any other action for the protection of safety, health, life or property.

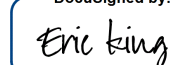
Now, therefore, based on the above findings, THE CITY MANAGER OF THE CITY OF BEND ORDERS THAT:

1. A Local State of Emergency is declared to exist throughout the City of Bend.
2. This Declaration of a Local State of Emergency is effective on the date signed by the City Manager and will remain in effect through December 1, 2021. It may be amended, modified, supplemented, and/or extended in additional increments so long as conditions continue to pose an ongoing, immediate, and substantial threat to life, safety, health, or property in the City of Bend.
3. In order to preserve limited public safety resources, to prioritize Bend Fire & Rescue's ability to meet public safety needs, and to preserve community safety by taking steps to mitigate fire risk during extremely dry conditions, use of any and all fireworks as defined by ORS 480.111 within the city of Bend during this emergency is strictly prohibited. Violation of this Emergency Declaration will be subject to a Class A civil infraction and any other civil and/or criminal penalties, sanctions, and liability allowed by law. For purposes of this section, "use" includes lighting, exploding, or igniting in any way. Fireworks displays approved by Bend Fire & Rescue and the

Oregon State Fire Marshall are exempt from this restriction. Use of fireworks that are illegal under state law continues to be prohibited at all times.

4. The City may take any other actions within its authority for the protection of safety, health, life, or property during this emergency.


Dated this 17th day of August 2021

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City Manager, City of Bend

Subject to ratification by the City Council on August 18, 2021

Approved by legal counsel:

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