



CITY OF BEND

DECLARING A LOCAL STATE OF EMERGENCY IN THE CITY OF BEND AS A RESULT OF EXTREME WEATHER CONDITIONS

First Amended Declaration

The City Manager of the City of Bend finds that:

- A. There are existing conditions resulting in the need for a local emergency declaration.
- B. The Governor declared a drought for Deschutes County on June 8, 2021.
- C. At the time of the drafting of the original declaration on June 27, 2021, the high temperature at the Bend Airport was 104 degrees Fahrenheit, according to the National Weather Service.
- D. The National Weather Service issued an Excessive Heat Warning for the region, including Bend, through 8:00 p.m. on Thursday, July 1, 2021.
- E. The National Weather Service forecast for Bend at the time of the original declaration showed daily high temperatures as high as 104 degrees Fahrenheit and no lower than 96 degrees Fahrenheit through at least July 4, 2021.
- F. The City is making significant efforts to assist houseless people in Bend, but not all of the City's efforts will take effect immediately.¹ The unprecedented heat is an immediate public health emergency, most of all for people in Bend who do not have access to cool places indoors. The City has been in contact with other local public entities as well as service providers who serve the unhoused members of the Bend community. That coordination has resulted in opening cooling shelters and providing other assistance, but the City may require more flexibility to assist with meeting the immediate needs of the community during this emergency.
- G. The extreme heat is contributing to already high fire danger. As of June 28, 2021, the Deschutes National Forest fire danger was Extreme.
- H. Late June and early July are typically an extremely busy period for the Bend Fire & Rescue. The public health emergency caused by the extreme heat will further impact

¹ More information can be found here:

<https://www.bendoregon.gov/Home/Components/News/News/4562/29?backlist=%2fcity-projects%2fcommunity-priorities%2fhomelessness>

Bend Fire & Rescue's already stretched resources, jeopardizing public health and safety. Mitigating the risk of fires caused by the use of fireworks will allow Bend Fire & Rescue to prioritize other public safety needs.

I. The use of fireworks that are legal under state law has been allowed in Bend. Bend Municipal Code (BMC) 5.30.000 regulates fireworks within the City.

J. Late in the evening on June 25, 2021, fireworks caused a fire at Stover Park in northeast Bend. Bend Fire & Rescue was able to put out the fire before it spread beyond the park. At this time, the fireworks that caused the fire are thought to have been illegal under state law.

K. 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.

L. Bend, like many other cities in the western United States, is carefully monitoring water use due to a shortage of chlorine necessary for treatment of its water supply. The City advised water users on June 25, 2021 to make voluntary reductions in water usage. Bend Fire & Rescue relies on the City's water system in most areas of the City for fire suppression. The City cannot afford to use its limited water supply for fighting fires caused by fireworks.

M. On June 30, 2021, the Governor declared a statewide wildfire emergency through Executive Order 21-17². The Order remains in effect until the earlier of November 1, 2021, until the wildfire threat is significantly relieved or the fire season ends, as determined by the Governor.

N. Shortly after the City of Bend declared this emergency, many other jurisdictions around Oregon followed and imposed restrictions on fireworks, including several jurisdictions in Central Oregon.

O. 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.

P. 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.

Q. 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.

² https://www.oregon.gov/gov/Documents/executive_orders/eo_21-17.pdf

R. As of July 7, 2021, the National Weather Service forecast for Bend shows multiple days with high temperatures over 90 degrees Fahrenheit through at least July 13, 2021.

S. 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.

T. Pursuant to BMC 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." BMC 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 continue to exist throughout the City of Bend.
2. This Declaration of a Local State of Emergency became effective on June 28, 2021 and will remain in effect through August 31, 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. To respond to the crisis, the City may relax, adjust, or waive any requirements, standards, criteria, or application of the Bend Municipal Code, Bend Development Code, or other regulations for the purpose of addressing the public health emergency caused by this extreme heat. Any such changes or decisions will be temporary in nature for so long as necessary to respond to this emergency. Any impacted sites or organizations that operate under adjustments or modifications under this section must revert to pre-existing requirements and standards once the emergency ends, and will in no way be vested under any of the adjustments or modifications.
4. In order to preserve limited public safety and water resources, and to prioritize Bend Fire & Rescue's ability to meet public safety needs, including those related to the extreme weather 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 order 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.

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

6. The City will take all necessary steps authorized by law to coordinate the response and recovery of this emergency, including but not limited to, requesting assistance from the State of Oregon and Deschutes County, to the extent available.

Dated this 8th day of July 2021

DocuSigned by:

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for City Manager, City of Bend

Subject to ratification by the City Council on July 21, 2021

Approved as to form:

DocuSigned by:

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City Attorney