

ORDINANCE NO. NS-

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTIONS 5.3.000 AND 5.50.030 TO PROHIBIT SALE AND USE OF FIREWORKS IN BEND

Recitals

- A. The Governor declared a drought for Deschutes County on June 8, 2021.
- B. In the summer of 2021, Oregon experienced a record-setting heat wave in late June.
- C. 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 the Bend Fire & Rescue Department and the Oregon State Fire Marshall. The Emergency Declaration and a subsequent extension through August 31, 2021 were ratified by the Bend City Council.
- D. Shortly after the City of Bend issued the June 28, 2021 Emergency Declaration, many other jurisdictions around Oregon followed and imposed temporary restrictions on fireworks, including several jurisdictions in Central Oregon.
- E. On June 30, 2021, the Governor declared a statewide wildfire emergency through Executive Order 21-17. The Order was to remain in effect until the earlier of November 1, 2021 or until the wildfire threat was significantly relieved or the fire season concluded, as determined by the Governor.
- F. The Deschutes National Forest fire danger was Extreme throughout the summer of 2021.
- G. The Bend Fire & Rescue Department recorded a significant reduction in fireworks related calls on the July 4th holiday compared to incident data from the last five years. The Bend Police Department also received fewer fireworks-related calls in the summer of 2021 compared to previous years.
- H. According to Bend Fire & Rescue, the drought conditions and the unseasonably high temperatures supported an extension of the Emergency Declaration in Bend to mitigate any negative impacts on the service demand of firefighting resources. The City's emergency declaration was subsequently extended.
- I. On August 17, 2021, the City issued a new emergency declaration restricting the use of fireworks within the City through December 1, 2021.
- J. Fireworks that have been legal under Oregon law have been permitted to be sold and used within the City of Bend, subject to regulation through Bend Municipal Code 5.30.000.

K. For many years, community members in Bend have expressed concern over the use of both legal and illegal fireworks within the city. Other community members have valued the ability to use fireworks, especially around the Fourth of July holiday. The City continued to receive input on the issue through the summer and autumn of 2021.

L. In Oregon, cities may have their own rules or ordinances regarding the manufacture, sale, use, and discharge of fireworks. Those rules or ordinances may be more restrictive than state law.

M. The City of Sisters, Bend's Central Oregon neighbor, is one example of a city that has taken a more restrictive approach. Since 1947, Sisters has prohibited the retail sale and use of fireworks that are otherwise legal under state law.

N. Community members have become increasingly concerned about the use of fireworks, particularly as it relates to fire risk, personal safety, impacts on veterans, and impacts on pets and other animals.

O. The City has acknowledged the impact of climate change on Bend and the surrounding area through its Community Climate Action Plan. It is anticipated that Central Oregon will experience hotter and drier summer seasons, which have the potential to increase the risk of drought and wildfire conditions.

P. 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.

Q. Annual reports published by the Oregon State Fire Marshal indicate fireworks as a cause of fire in Oregon.

R. The Bend Fire Marshal indicates that consumer fireworks pose an increased risk of fire.

S. Considering all of the above, the Bend City Council finds that the prohibiting the use and sale of fireworks has benefits to the community, including through less risk of fire in an increasingly dry environment, and less disruption to humans and animals. The Council also finds that allowing for permitted public displays can serve to recognize and continue the traditions associated with fireworks, especially around holidays such as the Fourth of July. The Council finds that, on balance, this approach is the best way to reconcile both the current concerns and the historical traditions around fireworks in Bend.

T. In order to achieve consistency and avoid confusion, this ordinance also eliminates an exception in the Municipal Code exempting legal fireworks from the code's noise limits. The Municipal Code already contains an exception from noise limits for certain public fireworks displays, which would remain exempt.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Municipal Code 5.3.000 and 5.50.030 are amended as shown on Exhibit A, attached. The amendment effectively repeals Bend Municipal Code 5.30.000 in its entirety and replaces it with the amended language.

Section 2. If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Section 3. All other provisions of the Bend Code remain unchanged and in full effect.

First Reading Date: October 6, 2021

Second Reading and adopted by roll call vote on October 20, 2021.

YES:

NO:

Sally Russell, Mayor

ATTEST:

Robyn Christie, City Recorder

Approved as to form:

City Attorney's Office

Chapter 5.30**FIRE REGULATIONS**

Sections:

- 5.30.000 Fireworks.
5.30.005 Open Burning Prohibited.

5.30.000 Fireworks.

- A. ~~The sale, offer for sale, possession, and use of fireworks shall conform to Oregon law, as supplemented by this chapter. The sale, offer for sale, possession, and use of fireworks, other than exempt fireworks, is prohibited within the City of Bend.~~
- B. ~~No person under the age of 18 may sell, keep, possess, use, or explode any fireworks within the City. Fireworks displays that have been issued a State Fire Marshal General Fireworks Display Permit are exempt from the prohibitions of this chapter.~~
- C. ~~No person shall sell or provide fireworks to a person under the age of 18 years. The City may confiscate, destroy, remove, or have removed at the owner's expense all fireworks in violation of this section, when necessary for the preservation of public safety.~~
- D. ~~The City may confiscate, destroy, remove, or have removed at the owner's expense all stocks of fireworks in violation of this section, when necessary for the preservation of the public safety. "Fireworks," "fireworks display," and "exempt fireworks" have the meanings defined in ORS 480.111.~~
- E. ~~Violation of this section is a Class A civil infraction for persons over the age of 18 and a Class C civil infraction for persons under the age of 18. [Ord. NS 2354, 2019; Ord. NS 2142, 2010] Violation of this section is a Class A civil infraction.~~

Chapter 5.50**NOISE**

Sections:

- 5.50.000 Noise Regulations.
- 5.50.005 Prohibition on Excessive Noises.
- 5.50.010 Sound Measurement.
- 5.50.015 Definitions.
- 5.50.020 Noise Limits.
- 5.50.025 Prohibited Noises.
- 5.50.030 Exceptions.
- 5.50.035 Permits.
- 5.50.040 Violation.

5.50.030 Exceptions.

The following shall not be considered violations of any provision of this chapter:

- A. Amplified or nonamplified sounds created by organized athletic or similar activities, when those activities are conducted on property generally used for that type of activity, such as stadiums, parks, schools, and athletic fields, between the hours of 7:00 a.m. and 10:00 p.m. If an event is scheduled so that it reasonably is expected to end by 10:00 p.m. but does not do so because of weather delay, overtime/extra innings or any other reason, the exception shall remain in effect through the end of the event.
- B. Sounds caused by emergency work or by the ordinary and accepted use of emergency equipment.
- C. Sounds caused by appropriate use of emergency warning devices and alarm systems for no more than 15 minutes or while the emergency remains in effect. All audible alarms shall automatically silence themselves after 15 minutes.
- D. Sounds regulated by Federal law, including, but not limited to, sounds caused by railroads, interstate motor carriers or aircraft.
- E. Sounds caused by regular vehicular traffic upon premises open to the public in compliance with State law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in this chapter.
- F. Sounds caused by air, electrical, or gas driven domestic tools, including lawn and construction tools, between the hours of 7:00 a.m. and 10:00 p.m.
- G. Sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals between the hours of 7:00 a.m. and 10:00 p.m., but not including amplified sound generated from a fixed location.
- H. ~~Sounds made by legal fireworks on the Fourth of July holiday, between the hours of 7:00 a.m. and 11:00 p.m.~~
- I. Sounds made by City of Bend solid waste franchisees.
- J. Sounds made by the removal of snow or ice from public or private property.
- K. Sounds made by the cleaning of or routine maintenance of City streets by City employees or agents.
- L. Sounds made by the cleaning of commercial or industrial parking facilities or private roadways between the hours of 7:00 a.m. and 2:00 a.m. as long as the noise from the equipment does not exceed 65 dBA at 50 feet from the edge of the property being cleaned between 10:00 p.m. and 2:00 a.m.
- M. The cumulative volume of normal speech of a group of people.

EXHIBIT A

Bend Code
Chapter 5.50 NOISE

Page 2/2

N. Amplified or nonamplified sound generated at concerts at an outdoor amphitheater with a capacity of at least 5,000 people between the hours of 7:00 a.m. and 10:00 p.m.; provided, that concerts or outdoor entertainment events are a permitted land use on the property. [Ord. NS-2201, 2013; Ord. NS-2188, 2012; Ord. NS-2142, 2010]