



CITY OF BEND

THIRD AMENDED ADMINISTRATIVE ORDER DATED MARCH 16, 2020 AND
EXTENSION OF ORDER THROUGH PHASES I AND II OF THE PHASED REOPENING
PLAN FOR DESCHUTES COUNTY
of the
City Manager of the City of Bend, Oregon

DECLARING A LOCAL STATE OF EMERGENCY IN THE CITY OF BEND AS A RESULT OF COVID-19 PANDEMIC

The City Manager of the City of Bend finds that:

- A. The following conditions have resulted in the need for a continued local state of emergency declaration.
- B. On March 11, 2020, the World Health Organization declared COVID-19 (novel coronavirus) a pandemic, acknowledging the virus will likely spread to countries all around the world.
- C. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency.
- D. Coronaviruses are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life. Current indications suggest that individuals who are elderly and/or have underlying health conditions are most at risk from COVID-19.
- E. COVID-19 requires a significant amount of resources at the local level to keep the public and community informed and as safe as possible.
- F. On March 8, 2020, Governor Kate Brown declared a state of emergency due to the COVID-19 outbreak in Oregon (Executive Order No. 20-03), finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1). Governor Brown also issued guidance regarding group gatherings and social distancing to minimize potential opportunities for COVID-19 to spread (Executive Order No. 20-05). On March 17, 2020, the Governor prohibited additional gatherings of people, banned on-site consumption of food and drink at food establishments statewide and extended school closures until April 28, 2020.
- G. On March 23, 2020, Governor Brown issued Executive Order 20-12, the Stay Home, Save Lives Order, ordering Oregonians to stay at home, closing specified retail businesses, requiring social distancing of at least six feet for any person not an immediate family member when individuals need to leave their homes, adding restrictions for other public and private facilities, closing state government buildings, imposing requirements for outdoor recreation, travel and licensed childcare facilities, and including enforcement

provisions. On April 7, 2020, the Governor issued an Executive Order extending school closures through the end of the 2020 school year.

H. On April 15, 2020, by Executive Order 20-16, the Governor order measures to ensure safe public meetings and continued operations by local governments during the COVID-19 outbreak, including provisions for electronic or virtual public meetings (as defined by the Oregon Public Meetings Act). Executive Order 20-16 also addressed submitting public comments by written testimony, and satisfying meeting requirements under state law for local budget meetings during the COVID-19 emergency period.

I. On April 20, 2020, the Governor provided "Reopening Oregon: A Public Health Framework for Restarting Public Life and Business". This document includes gating criteria, core status preparedness, and phased lifting of restrictions. On May 1, 2020, the Governor's Office and OHA gave further guidance particularly on increased testing and contact tracing for a containment strategy in Oregon. The phased approach for counties and businesses emphasizes data, safety, and physical distancing. While many of these prerequisites are set at the county level, some are set at the health region or statewide level.

J. On May 1, 2020, by Executive Order 20-24, the Governor extended the statewide state of emergency (Executive Order 20-03) for an additional 60 days, through July 6, 2020, unless extended or terminated earlier by the Governor.

K. On May 5, 2020, the Governor provided an updated checklist of the seven prerequisites that must be met for a county or region to enter Phase I of Reopening Oregon. Many are set at the county level, and some are set at the health region or statewide level. Deschutes County is in Region 7.

L. On May 7, 2020, the Oregon Health Authority provided the final versions of Phase I Reopening Guidance, including: Oregon General Guidance for Employers on COVID-19; Specific Guidance for Restaurants, Breweries, Brewpubs, Wineries, Tasting Rooms and Distilleries; Specific Guidance for Retail Stores; Specific Guidance for Personal Service Providers; Specific Guidance for Outdoor Recreation Organizations (collectively, "OHA Guidances").

M. On May 8, 2020, the Deschutes County Commissioners submitted a Deschutes County Reopening Plan, dated May 6, 2020, to the Governor, which addressed the seven criteria for reopening outlined by the Governor's office for a phased reopening of our communities and businesses. On May 14, 2020, 31 counties, including Deschutes County, were approved by the Governor to enter Phase I of Reopening for the identified businesses, subject to the OHA Guidances and Executive Order 20-25, beginning on May 15, 2020.

N. On May 14, 2020, the Governor replaced the Stay Home, Save Lives Order, and in its place established a phased, regionally-tailored framework for reopening the state (Executive Order 20-25). The reopening framework keeps in place a majority of the

restrictions set forth in the Stay Home, Save Lives Order, but relaxes the restrictions on local gatherings and allows certain business sectors to reopen in counties that meet the Governor's reopening criteria.

O. Counties must remain in Phase I for at least 21 days before becoming eligible to advance to Phase II. If counties begin to see a significant increase in COVID-19 cases or community spread, it could necessitate a county moving back from Phase I to a stay-home status, based on OHA communication with local health officials.

P. The testing, contact tracing, isolate-and-quarantine strategy announced by the Governor and her public health advisors will require support from the public health system, business owners and the community.

Q. 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.

R. Pursuant to Bend Municipal Code (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: "Any other action for the protection of safety, health, life or property."

S. I have been in regular contact with local agency leaders and public health experts, including the Deschutes County Health Services Director for countywide information and updates. The City has been closely monitoring updated information for the state through the Oregon Health Authority (OHA), and the Centers for Disease Control (CDC) for U.S. updates. The primary focus at the City is to restrict the spread of COVID-19 and to maintain the health of our workforce and the community so the City can continue to provide crucial City services. The COVID-19 pandemic will create significant financial and other impacts to the community of unknown duration.

T. On March 16, 2020, I issued an Administrative Order Declaring a Local State of Emergency in the City of Bend (Emergency Order), which was ratified by the City Council on March 18, 2020, and submitted to the Emergency Manager of Deschutes County for County Commissioner approval, pursuant to BMC 1.60.015. As provided in the Emergency Order, the City Manager has the authority to extend the Declaration of Local State of Emergency, to be ratified by Council at subsequent regularly scheduled Council meetings. On April 9, 2020, I extended the Emergency Order through May 6, 2020, which the City

Council ratified on April 15, 2020. On May 5, 2020, I extended the Emergency Order through May 20, 2020, which was ratified by the City Council on May 6, 2020.

U. In addition to the direct health effects of COVID-19, the steps taken to respond to and fight the virus's spread have resulted in short and long term impacts to global, national, state and local economies. The economic downturn is being felt at numerous levels--high unemployment, decreased investment and consumer spending, disruption of supply chains, market disruption, etc. Many households and businesses have or will undergo an economic crisis of unprecedented speed and force. The previously strong Oregon economy is in a state of flux and uncertainty. In Bend, with the reliance on tourism and the service and recreation sectors, there is a potential for an extended negative local economic impact on individuals and businesses. While state and federal relief packages may materialize to help local governments and communities, the timing and extent of such aid remains currently uncertain.

V. While the Phased I Reopening is a positive step, the recovery for the City of Bend, from the safety of City employees and public meetings, the programs and relaxed regulations in place for businesses, to the steps needed to comply with Executive Order 20-25, will continue to be necessary through Phase II of the Reopening.

W. At this time and under these circumstances, I find that the continuation of the Emergency Order remains in the best public health and safety interests of the Bend community and is consistent with the direction from OHA, the Governor's Office, and ongoing information from the CDC. I have made reasonable efforts to inform the City Council of a need to extend the state of emergency.

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 Third Extended Declaration of Local State of Emergency is effective immediately and will remain in effect through Phase II of the phased reopening of Oregon, including any resurgence of COVID-19 that might trigger increased restrictions from the State. *See Executive Order 20-25, Sections 17-22.*
3. This Declaration may be modified as needed so long as COVID-19 continues to pose an ongoing, immediate, and substantial threat to life, safety, health, or property in the city of Bend. The City will look to national, state and county public health orders and recommendations in determining the necessity for further extension(s). By the ratification below, the City Council is asked to give the City Manager authority to order further modifications or extensions of this Declaration of Local State of Emergency, to be ratified by Council at subsequent regular or specially scheduled Council meetings.

4. To protect the health and safety of City employees, with input from the City Human Resource Department, IT, Legal, and other City department heads, the City Manager has and will continue to develop emergency policies and guidance on the use of sick leave, vacation leave, telecommuting, meeting protocol, physical distancing (also called social distancing), identification of essential and non-essential staff for ongoing presence at City facilities, and other policies that will be in effect for the duration of the emergency. This may include limiting City staff interaction with the public and restricting access to City facilities, while seeking to preserve the continuation essential public services. Through Phases I and II the City will be guided by the City's Return to Office Plan and supporting documents.

5. To reduce exposure and slow the spread of the COVID-19 outbreak while ensuring continued operations of local government, and in support of state and federal guidelines for physical distancing, the City has been conducting public meetings through virtual web-based platforms or other remote mechanisms. The public is able to livestream some meetings from links on the City's website, and listen to some meetings via phone. The City will provide members of the public the ability to submit written comments or testimony by email or other electronic means, which the governing body holding the meeting will consider in a timely manner. The City continues to work on the technical ability to have verbal testimony for City Council and other advisory board meetings. The intent is for public meetings to continue to be transparent, conduct City business, and comply with City code, the Oregon Public Meetings Law, and land use hearings regulations.

- City Council, Planning Commission meetings and all project-based and standing committee meetings will continue to be scheduled via a web-based platform through Phase I of the Reopening. There may be a continued need for meeting modifications for staff and public official safety, such as reducing meeting length time, modified placement of agenda items, etc.
- During Phase II of the Reopening, Councilors may resume in-person meetings in Council Chambers with physical distancing and other safety protocols in place, but it is likely the meetings will remain virtual for public and staff attendance. It is expected that most other committee, board and advisory group meetings will be conducted virtually through Phase II.
- The Mayor will continue to monitor and consider state and local public health recommendations carefully in determining whether to cancel or continue future public meetings during any COVID-19 resurgence during these reopening phases.
- Web-based public hearings necessary to meet state-mandated land use review timelines may be held with modifications for public and staff safety. Planning and legal staff have developed interim procedures consistent with local and state law to be used during this emergency period.
- Municipal court sessions (which occur on Thursdays), including all trials, have been temporarily cancelled through at least May 2020. City IT, Facilities and Municipal Court staff are staff are exploring whether to open court back up through a virtual

web-based medium or to conduct court sessions in a setting with physical and other modifications for court staff and public safety. This is expected to occur as soon as possible.

6. The City will not send shut-off notices or shut off water for non-payment of unpaid water bills during Phase I of the Reopening, and may suspend enforcement of other utility billing and finance department rules, regulations and code provisions in the City's discretion. The City intends to continue this policy into Phase II, but reserves the right to decide whether it is necessary to continue the emergency suspension of its code, and/or institute a process for evaluating pandemic-related financial need.

7. To respond to the COVID-19 Pandemic, the City may procure needed goods and services in accordance with ORS 279B.080 and without compliance with normal procurement procedures, redirect any necessary City funds for emergency purposes, and take any other actions set forth in BMC Section 1.60.010, including any actions necessary for the protection of health and safety.

8. All permitted special events are cancelled through Phase II of this emergency, and no new permits will be issued, except for farmer's markets on public property (exempt from the Governor's Order as an essential business, with guidelines and restrictions). This is consistent with Executive Order 20-25 and the Reopening Oregon Framework which limits local gatherings to 25 persons in Phase I, and 100 persons with physical distancing in Phase II (tentative and subject to change.) The City issues special event permits for gatherings of more than 150 persons on City property or right-of-way. BMC Chapter 7.40.

9. To respond to the crisis, and particularly to ease burdens on businesses and service sector workers, the City may relax or adjust enforcement of City codes, including but not limited to parking restrictions downtown and elsewhere in the City, sign code (e.g., allow sandwich boards signs without permits), and other Bend Code or Development Code provisions.

10. The City may adjust, waive, or defer permit fees for building modifications or other purposes, business registration fees or other City fees and charges, for businesses, agencies, individuals or entities, to facilitate services during this emergency or for those seeking to respond to this crisis.

11. The City may also adjust, suspend or modify enforcement of provisions of the Bend Code and/or Development Code to allow additional space on sidewalks, public or private parking areas, and streets for eligible businesses operations to meet COVID-19 public health guidelines, provide a safer environment for customers and employees during this public health emergency, and to stimulate the recovery and support of local businesses. Eligible businesses are those that can meet the requirements in Sections 12-15 below.

12. For public sidewalks, this temporary policy may include allowing or creating more space for outdoor dining (extension of seating), or display and circulation on sidewalk areas. The public sidewalk use may be processed as an extension of the existing sidewalk vendor, cafes and furnishings program in BMC Chapter 7.20. Additional public sidewalk

locations may be allowed by the City Manager (or designee) to respond to the public health and safety and economic needs of businesses and the public during this public health emergency. The use of public sidewalks will be subject to fire access and ADA compliance and review, any other operational or other requirements developed by the City, and must adhere to state guidelines.

13. Separately, for private parking lots, the same reasons exist to enable use of private parking spaces and lots without strict compliance with site plan review approvals and some code provisions. Under the City Manager's ability to control, restrict, or regulate the sale of goods and services and protect public health and safety during the emergency, a portion of private parking lots may be occupied by eligible businesses for outdoor dining facilities or displays/merchandise if in compliance with guidelines issued by the City. This use is subject to fire access and ADA compliance and review, any other operational or other requirements developed by the City, and must adhere to state guidelines. In addition, the use will be subject to community development department guidance, review and approval. As a temporary, emergency program, it is not intended to include land use approval.

14. For public streets and public parking lots, under the emergency ability to close or limit the use of public streets and other public places (BMC Section 1.60.010(B)), and the authority of the City Manager as Road Authority (BMC Section 6.10.000(8)), the City may consider a program to close all or portions of certain streets, alleys and parking lots in the city for the same reasons. This program will likewise be guided by fire access, ADA review, parking and traffic control, and other safety and accessibility considerations that arise. Subject to further gathering of business interest and City Council approval, the City will consider the permitting or other City process needed to temporarily close or regulate the use of streets or parking lots during the public health emergency for use by businesses, their customers, and the public.

15. Adjustments or modifications of enforcement of code provisions do not excuse compliance with state or federal laws/regulations, including but not limited to OLCC licensing. Businesses that operate under adjustments or modifications of Bend code provisions 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, which are intended to be temporary in nature.

16. The City may adjust land use permitting or processes (as legally allowed) during this emergency. Adjusted land use processes will be communicated to applicants, any person(s) for whom notice is required, and generally to the public as much as possible. Altered structures/uses may be required to be restored to their original configuration once this emergency is over.

17. Pursuant to ORS 446.265, the City may establish on City property or allow a private or public entity to establish on private or public property, transitional housing, which may include yurts, huts, cabins, fabric structures, tents and similar accommodations. The transitional housing operation must be established pursuant to a pilot plan, to be approved by the Community Development Department, and reviewed by the Police and Fire departments, establishing the total number of units, location of units, spacing, and location

for sanitation facilities including portable toilet(s) and portable handwashing station(s). Authorized accommodations at this location may include recreational vehicles, cars, and tents. In addition to the BDC Section 3.4.150, waiver and modification criteria, the City Engineer may waive or modify public improvement standards as needed, consistent with public health and safety. The City will work with a non-profit or other entity for case management and/or supervision of the transitional housing; any private or public entity operation must likewise include a non-profit or other entity for case management and/or supervision of the transitional housing.

18. A provider of emergency shelters may establish a shelter at a site with an approved or established permanent use, where use as an emergency shelter bears an ancillary relationship to the permanent use (e.g., an established church providing alternative shelter as part of its mission or services) without obtaining development approval from the City. The shelter use must cease once this emergency is over.

19. The City may set up a Business Recovery Fund, with eligibility criteria, for loss of income due to COVID-19, available to all businesses based in Bend; federal regulations require that businesses provide proof of loss of revenue due to a destabilizing event. Subject to City Council approval, the program will establish the eligibility criteria, amounts available, and what the grant can be used for (generally operating expenses).

20. Due to the unprecedented economic consequences, state of uncertainty and economic strain on local businesses due to the pandemic, the City has established a crisis assistance program for businesses for water and sewer bill relief, with eligibility criteria, the amounts available, and its administration procedures, which has been approved by the City Council.

21. Subject to City Council approval, the City may establish a Septic to Sewer COVID-19 Relief Program, extending the time to connect to sewer from the Notice of Operational Completion and modifying the criteria for waiving the connection fee.

22. 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. This includes but is not limited to, all actions necessary to seek reimbursement from any relief package such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act or the HEROES Act, and take any actions necessary to better position the City to continue to provide essential services to families, households and businesses in Bend.

Dated this 19th day of May, 2020



City Manager, City of Bend

Ratified by City Council action on May 20, 2020