



Staff Report

File #: 21-504

Version: 1

Date: 11/22/2021

Item #: 6.c.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Mike Niblock, Fire Chief

SUBJECT:

Information on the sale and use of fireworks in the City of Salem.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Safe Community

SUMMARY:

This report summarizes the role of the State of Oregon and the City of Salem in the sale and use of legal consumer and display fireworks; the information used by the Salem Fire Department to determine fire danger; current options available to the City of Salem in the event of extreme fire danger; what resources would be required to enforce additional restrictions; and historical statistics on the impact of fireworks in the community.

ISSUE:

Information only. Report was prepared in response to City Council motion passed July 12, 2021.

RECOMMENDATION:

Information only.

FACTS AND FINDINGS:

City Council requested a draft ordinance to prohibit the sale and use of all fireworks in the City. This information report is intended to provide a factual framework for City Council consideration prior to preparing an ordinance.

Rules and Regulations

The State of Oregon, through various Revised Statutes 480.111-480.165 and Administrative Rules, Chapter 837, Division 12, determines the lawful and unlawful sale, use and/or public display, permitting, and enforcement of fireworks.

Determining Fire Danger

Several factors are taken into consideration when determining fire danger throughout the year.

The Fire Chief closely monitors the National 7-Day Significant Fire Potential information that is developed by the Predictive Services Group. The Predictive Services Group is located at the National Interagency Coordination Center, National Interagency Fire Center (NICC, NIFC) and uses weather and wildland fuels data to forecast significant fire potential by location. NIFC is a partnership with multiple federal agencies including the U.S. Forest Service, U.S. Bureau of Land Management, and the National Weather Service. The 7-Day Significant Fire Potential is an assessment of the overall fire environment considering multiple factors including weather, lightning amount, and fuel dryness.

The Haines Index is also used and is a measure of how strongly atmospheric conditions near the earth's surface might contribute to an existing fire becoming a dangerous erratic fire.

The current local temperature and humidity and immediate forecasts are used in concert with the multiple data sources and analysis.

Current Options in Extreme Fire Danger

If the Fire Chief determines there is an immediate fire danger, at any time, there are several options available for mitigation.

- 1. Burn Ban** - A Burn Ban can be issued for the City of Salem under the authority of the Fire Chief/Fire Code Official (pursuant to SRC 58.001-58.004 and Oregon Fire Code 307.1.1) and it may include a total ban on open burning, recreational and ceremonial fires and/or the ignition of fireworks.
- 2. Emergency Declaration** - In the event of an emergency that has overwhelmed, or threatened to overwhelm, the City's resources to respond, the City may declare a state of emergency. (pursuant to SRC 2.670 Declaration of a State of Emergency)
- 3. Salem Revised Code 58.315** - Allows the Fire Code Official to revoke permits for the sale or display of fireworks when, in the Fire Code Official's opinion, such sale or display is not in compliance with all applicable statutes, ordinances, regulations, and administrative rules and procedures governing such sales or displays; or when, in the Fire Code Official's opinion, such sale or display represents an undue hazard to life or property.

Additional Resources for Effective Enforcement of Additional Restrictions

To provide adequate enforcement of any newly created restrictions on the wholesale or retail sale and use of consumer fireworks would require additional police officers to investigate any violations of the new restrictions. The Salem Police Department does not currently have the capacity to do these investigations.

When considering a ban on all fireworks sales and use within the City of Salem, it is important to be clear about public expectations regarding enforcement. Enforcement would be problematic, if not impossible, given current resources and higher priority calls for service that occur this time of year.

Lawful Fireworks

ORS 480.111 defines fireworks in the following categories:

- A. Consumer fireworks
 - a. A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illuminating torch or a wheel, or a combination of two or more of those items, etc.;
- B. Display fireworks
 - a. Are designed for travel into the air or to project effects from a fixed position, etc.;
- C. Exempt fireworks
 - a. Paper caps, snakes or similar smoke producing items, etc.;
- D. Pyrotechnic articles
 - a. For professional use;
- E. Special effects; and
- F. Other pyrotechnic devices
 - a. Are capable of producing audible, visual, mechanical or thermal effects through combustion, deflagration or detonation.

All other fireworks are illegal in Oregon.

ORS 480.127 regulates the retail sale of consumer fireworks, which allow retail consumer fireworks sales, with an approved permit issued by the State Fire Marshal, from June 23 through July 6 of the year the permit is issued. The use of legal consumer fireworks is not limited and is allowable outside of the approved dates of sale.

ORS 480.130 regulates the wholesale sale of consumer fireworks and firework displays, which allow with an approved permit issued by the State Fire Marshal, an annual permit to sell wholesale and public display permits which are valid for no more than 10 days from date of issuance and may authorize only one fireworks display during that period.

The City of Salem Revised Code Section 58.305, 58.315, and 58.325 adopts State Firework Law (unless noted), outlines the process for the permitting of firework sales and/or displays, and the prohibition of other airborne devices.

ORS 480.111-480.165 https://www.oregonlegislature.gov/bills_laws/ors/ors480.html
OAR Chapter 837-Division 12

https://secure.sos.state.or.us/oard/displayDivisionRules.action;JSESSIONID_OARD=uKFbxDbhO3RzSNT9dEtdvxq2huHcURK6QneKR5beHgYPy_Bi6mFe!1684782157?selectedDivision=3798

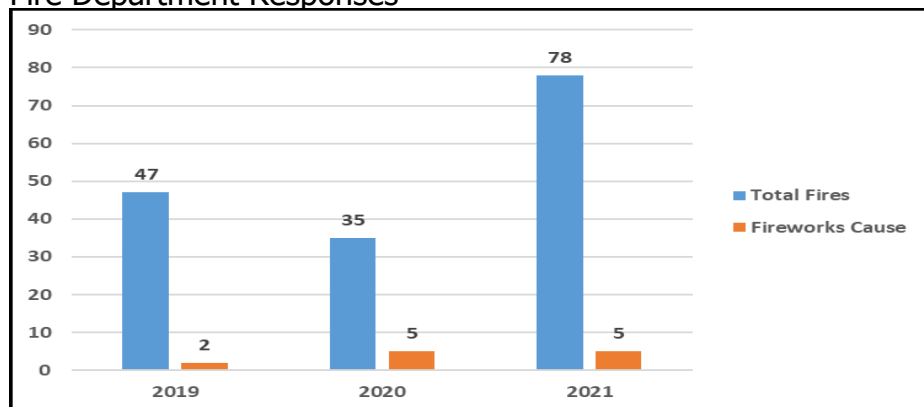
SRC Chapter 58

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=PTIICOOR_TITVCODEST_CH58FIPRCO_S58.305STFILAAD

BACKGROUND:

Historical Statistics Related to Fireworks

Fire Department Responses



Property loss amounts of incidents where fireworks were the confirmed source by year is as follows:

June 23-July 6, 2019 - \$0

June 23-July 6, 2020 - \$200

June 23-July 6, 2021 - \$1,800

Willamette Valley Communications (911 & Non-Emergency Dispatch) receive approximately 300 additional calls a day between July 3rd and 4th that are generally associated with fireworks complaints. Most of the calls are noise complaints resulting from illegal firework use as well as a few medical requests for injuries from fireworks.

Salem Police Department Calls for Service

June 23-July 6, 2019 - 54 fireworks complaints

June 23-July 6, 2020 - 54 fireworks complaints

June 23-July 6, 2021 - 36 fireworks complaints

MIKE NIBLOCK
FIRE CHIEF

Attachments:
None.